

Scarborough Stanfield
Shofner Tennyson
Spears Venable

Absent—Excused

Colquitt McKee
Head Padgett
Jackson Thornton
Jones of Atascosa

Mr. Dunlap of Hays moved that the House recess to 10:00 o'clock a. m., tomorrow.

Mr. Hofheinz moved that the House recess to 4:35 o'clock p. m., today.

Question first recurring on the motion by Mr. Hofheinz, it was lost.

Mr. Hofheinz moved that the House adjourn until 10:00 o'clock a. m., Thursday, October 15.

Mr. Petsch raised a point of order, on the motion by Mr. Hofheinz to adjourn until Thursday, October 15, on the ground that the House has not transacted any business since a motion to adjourn was lost.

The Chair sustained the point of order.

SENATE BILL ON FIRST READING

The following Senate bill, received from the Senate today, was laid before the House, read first time, and referred to the appropriate committee, as follows:

S. B. No. 8, to the Committee on State Affairs.

LEAVES OF ABSENCE GRANTED

(By unanimous consent.)

Mr. Jones of Atascosa was granted leave of absence for this afternoon, on account of illness, on motion of Mr. Davis.

Mr. Head was granted temporary leave of absence for today, on account of illness, on motion of Mr. Wells.

Mr. McKee was granted leave of absence for this afternoon, on account of illness, on motion of Mr. Knetsch.

Mr. Thornton was granted leave of absence for this afternoon, on account of important business, on motion of Mr. Jones of Wise.

RECESS

On motion of Mr. Dunlap of Hays, the House at 4:50 o'clock p. m., took

recess to 10:00 o'clock a. m., tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills as follows:

Counties: House Bill No. 41.

Labor: Senate Bill No. 5.

State Affairs: House Bill No. 47, and Senate Bill No. 8.

TENTH DAY

(Continued)

(Thursday, October 15, 1936.)

The House met at 10:00 o'clock a. m., and was called to order by Speaker Stevenson.

LEAVE OF ABSENCE GRANTED

(By unanimous consent.)

Mr. Jackson was granted leave of absence for yesterday afternoon and today, on account of illness, on motion of Mr. Hankamer.

HOUSE BILL NO. 37 ON PASSAGE TO ENGROSSMENT

The Speaker laid before the House, as pending business, on its passage to engrossment,

H. B. No. 37, A bill to be entitled "An Act authorizing the issuance of interest-bearing warrants to pay Old Age Assistance benefits, making an appropriation, and declaring an emergency."

The bill having been read second time on yesterday.

Mr. Good offered the following amendment to the bill:

Amend House Bill No. 37 by adding a new Section between Sections 3 and 4 to be known as Section 3A:

"Sec. 3A. Provided, however that the power hereby granted The Texas Old Age Assistance Commission to issue interest-bearing warrants against the Texas Old Age Assistance Fund is expressly limited to the sum of Three Million Dollars, and until March 1, 1937."

The amendment was adopted.

Mr. Farmer offered the following amendment to the bill:

Amend House Bill No. 37 by striking out Section 3 and substitute the following therefor:

"Sec. 3. The State Highway Commission and the Treasurer of the State of Texas are hereby authorized and directed to invest, when said warrants are ready, not exceeding Three Million (\$3,000,000.00) Dollars of the State Highway Fund in said warrants hereafter to be issued by the Texas Old Age Assistance Commission, drawn upon the Texas Old Age Assistance Fund; provided, that all such warrants purchased by said State Highway Commission and the Treasurer of the State of Texas and paid for out of the said State Highway Fund shall be held by the State Treasurer for the use and benefit of the said State Highway Fund; and that said warrants so purchased by said State Highway Fund shall be taken up, and the State Highway Fund shall be reimbursed, out of the Texas Old Age Assistance Fund as such funds become available, together with interest thereon at the rate of not exceeding two per cent per annum.

"Said warrants so purchased shall upon such transfer remain in full force, and each of said warrants shall be paid by the State Treasurer in due order as the revenues from the Texas Old Age Assistance Fund become available to discharge the several warrants, and in the same due order as if the said warrants were held by private persons.

"This Act shall be cumulative of all other laws pertaining to said State Highway Commission and said Highway Fund."

Mr. Petsch raised a point of order, on further consideration of the amendment by Mr. Farmer, for the following reasons:

"(1) The amendment is not germane to the bill, seeking to change the original purpose of the bill.

"(2) The amendment seeks to divert a special fund, and thereby violates Section 7 of Article VIII of the Constitution."

The Speaker sustained the first point raised, as regards the changing of the original purpose of the bill.

By unanimous consent of the House, the caption of the bill was ordered

amended to conform to all changes, and with the body of the bill.

House Bill No. 37 was then passed to engrossment by the following vote:

Yeas—100

Adamson	Knetsch
Adkins	Lanning
Aikin	Latham
Alexander	Leath
Alsup	Lemens
Ash	Lindsey
Bradbury	Lotief
Bradford	Lucas
Bridgers	Mauritz
Broyles	McConnell
Butler of Brazos	McFarland
Butler of Karnes	McKinney
Cagle	Moffett
Canon	Morris
Cooper	Morrison
Craddock	Morse
Crossley	Newton
Daniel	Olsen
Davis	Palmer
Davison of Fisher	Patterson
Dickison	Payne
Dunlap of Kleberg	Petsch
Duvall	Quinn
Dwyer	Reader
England	Reed of Bowie
Fain	Reed of Dallas
Fisher	Riddle
Ford	Roach of Angelina
Fuchs	Roach of Hunt
Gibson	Roark
Glass	Roberts
Good	Rogers
Graves	Russell
Gray	Rutta
Hankamer	Sessions
Hanna	Settle
Hardin	Shofner
Harris of Archer	Spears
Harris of Dallas	Stinson
Head	Tennyson
Herzik	Thornton
Hodges	Tillery
Holland	Waggoner
Hoskins	Walker
Huddleston	Wells
Hyder	Wood of Harrison
Jones of Atascosa	Wood of Montague
Jones of Falls	Worley
Jones of Wise	Young
Keefe	Youngblood

Nays—19

Atchison	Dunlap of Hays
Bergman	Farmer
Burton	Fox
Collins	Greathouse
Colquitt	Leonard

McCalla	Steward
Moore	Stovall
Nicholson	Tarwater
Pope	Westfall
Roane	

Absent

Bourne	Hofheinz
Broadfoot	Howard
Caldwell	Hunt
Calvert	Hunter
Celaya	James
Colson	Jefferson
Cowley	Jones of Shelby
Davisson	King
of Eastland	Lange
Dunagan	Luker
Frazer	Scarborough
Harper	Smith
Hartzog	Stanfield
Hill	Venable

Absent—Excused

Jackson	Padgett
McKee	

HOUSE BILL NO. 37 ON THIRD
READING

Mr. Graves moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 37 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—105

Adamson	Fisher
Adkins	Ford
Aikin	Fuchs
Alexander	Gibson
Alsup	Glass
Ash	Good
Bradbury	Graves
Bradford	Hankamer
Broyles	Hanna
Butler of Brazos	Hardin
Butler of Karnes	Harris of Archer
Cagle	Harris of Dallas
Canon	Head
Celaya	Herzik
Cooper	Hodges
Craddock	Holland
Crossley	Hoskins
Daniel	Huddleston
Davis	Hunter
Davisson of Fisher	Hyder
Davisson	Jones of Atascosa
of Eastland	Jones of Falls
Dickison	Jones of Wise
Duvall	King
Dwyer	Knetsch
England	Lanning
Fain	Latham

Leath	Roach of Angelina
Lemens	Roach of Hunt
Lindsey	Roark
Lotief	Roberts
Lucas	Rogers
Luker	Russell
Mauritz	Rutta
McConnell	Settle
McFarland	Shofner
McKinney	Smith
Moffett	Spears
Morris	Steward
Morrison	Stinson
Morse	Tarwater
Newton	Tennyson
Nicholson	Thornton
Olsen	Tillery
Palmer	Waggoner
Patterson	Walker
Payne	Wells
Petsch	Westfall
Quinn	Wood of Harrison
Reader	Wood of Montague
Reed of Bowie	Worley
Reed of Dallas	Young
Riddle	Youngblood

Nays—16

Atchison	Greathouse
Bergman	Leonard
Burton	McCalla
Collins	Moore
Colquitt	Pope
Dunlap of Hays	Roane
Farmer	Sessions
Fox	Stovall

Absent

Bourne	Hill
Bridgers	Hofheinz
Broadfoot	Howard
Caldwell	Hunt
Calvert	James
Colson	Jefferson
Cowley	Jones of Shelby
Dunagan	Keefe
Dunlap of Kleberg	Lange
Frazer	Scarborough
Gray	Stanfield
Harper	Venable
Hartzog	

Absent—Excused

Jackson	Padgett
McKee	

The Speaker then laid House Bill No. 37 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—108

Adamson	Keefe
Adkins	King
Aikin	Knetsch
Alexander	Lanning
Alsup	Latham
Ash	Leath
Bradbury	Lemens
Bradford	Lindsey
Bridgers	Lotief
Broyles	Lucas
Butler of Brazos	Luker
Butler of Karnes	Mauritz
Cagle	McConnell
Canon	McFarland
Collins	Moffett
Cooper	Morris
Craddock	Morrison
Crossley	Morse
Daniel	Newton
Davis	Olsen
Davison of Fisher	Palmer
Davisson	Patterson
of Eastland	Payne
Dickison	Petsch
Dunlap of Kleberg	Quinn
Duvall	Reader
Dwyer	Reed of Bowie
England	Reed of Dallas
Fain	Riddle
Fisher	Roach of Angelina
Ford	Roach of Hunt
Fuchs	Roark
Gibson	Roberts
Glass	Rogers
Good	Russell
Graves	Rutta
Gray	Sessions
Hankamer	Settle
Hanna	Shofner
Hardin	Smith
Harris of Archer	Spears
Harris of Dallas	Stinson
Head	Tennyson
Herzik	Thornton
Hodges	Tillery
Holland	Waggoner
Hoskins	Walker
Huddleston	Wells
Hunt	Westfall
Hunter	Wood of Harrison
Hyder	Wood of Montague
Jones of Atascosa	Worley
Jones of Falls	Young
Jones of Shelby	Youngblood
Jones of Wise	

Nays—17

Atchison	Farmer
Bergman	Fox
Burton	Greathouse
Colquitt	Leonard
Dunlap of Hays	McCalla

McKinney	Steward
Moore	Stovall
Nicholson	Tarwater
Pope	

Present—Not Voting

Roane

Absent

Bourne	Hartzog
Broadfoot	Hill
Caldwell	Hofheinz
Calvert	Howard
Celaya	James
Colson	Jefferson
Cowley	Lange
Dunagan	Scarborough
Frazer	Stanfield
Harper	Venable

Absent—Excused

Jackson
McKee

Padgett

PAIRED

Mr. Roane (present), who would vote "nay," with Mr. Harper (absent), who would vote "yea."

REASONS FOR VOTE

I vote "no" against the engrossment of the bill because I believe it is strictly in violation of Section 50 of Article III of the Constitution of the State of Texas.

I want to do everything I can to raise funds for the payment of the Old Age Assistance, but I want to do it in accordance with our Constitution.

COLQUITT.

We believe that House Bill No. 37 would be constitutional if it allowed the payment of interest on warrants issued only to beneficiaries of the Texas Old Age Assistance Act. We believe that the announced plan of using the bill to issue blanket warrants to those who are not beneficiaries of said Act violates Section 50 of Article III of the Constitution.

WALKER,
LEONARD,
NICHOLSON,
BERGMAN,
ROANE,
DUNLAP of Hays,
STEWART.

I voted against House Bill No. 37, variously termed "An Act authorizing the issuance of interest bearing warrants," "An Appropriation Bill," "A

bill to borrow money from the General Revenue Fund," and "An Act authorizing the Texas Old Age Assistance Commission to pay interest on warrants," for the reason that I think the bill is clearly unconstitutional in that it appears to violate Sections 49 and 50 of Article III of the Texas Constitution which prohibits the creation of debts by the State or pledging the credit of the State; and that it appears to be an attempt to amend a law now in effect in violation of Section 36 of Article III of the State Constitution.

However, regardless of the question of the unconstitutionality of the bill, which I think is beyond question, there is involved in the procedure contemplated in this bill a new departure in State financing which appears to be very dangerous, to say the least.

It seems to me that the State should never spend money until it has first been collected, as it is very easy to spend, but very difficult to collect. In the main, this bill would cause the creation of a large deficit before any money could be collected through taxation, and the problem of raising additional money would have to be met at a future time. I simply prefer raising the money before spending it.

FOX.

RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled resolutions:

S. C. R. No. 4, Relative to certain road bonds.

S. C. R. No. 5, Granting E. A. Schlick permission to sue the State.

SPECIAL ORDER SET

Mr. Lotief moved that House Bill No. 32, be set as special order for 10:00 o'clock a. m., tomorrow.

Question recurring on the motion to set House Bill No. 32 as special order, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—100

Adamson	Alexander
Adkins	Alsup
Aikin	Ash

Atchison	Jones of Wise
Bergman	Keefe
Bradbury	Knetsch
Bridgers	Latham
Broyles	Leath
Burton	Leonard
Butler of Brazos	Lindsey
Butler of Karnes	Lotief
Calvert	Luker
Canon	Mauritz
Cooper	McCalla
Craddock	McFarland
Crossley	McKinney
Daniel	Moffett
Davis	Moore
Davison of Fisher	Morris
Dickison	Morrison
Dunlap of Kleberg	Newton
Duvall	Olsen
Dwyer	Palmer
England	Patterson
Fain	Payne
Farmer	Petsch
Fisher	Quinn
Fox	Reed of Bowie
Fuchs	Reed of Dallas
Gibson	Riddle
Glass	Roach of Angelina
Good	Roach of Hunt
Gray	Russell
Greathouse	Rutta
Hanna	Sessions
Hardin	Settle
Harris of Archer	Shofner
Harris of Dallas	Smith
Head	Stinson
Herzik	Tennyson
Hodges	Tillery
Holland	Venable
Hoskins	Waggoner
Huddleston	Walker
Hunt	Wells
Hunter	Westfall
Hyder	Wood of Harrison
Jones of Atascosa	Wood of Montague
Jones of Falls	Young
Jones of Shelby	Youngblood

Nays—18

Bradford	Morse
Cagle	Nicholson
Collins	Reader
Colquitt	Roark
Dunlap of Hays	Rogers
Hankamer	Steward
Lanning	Tarwater
Lucas	Thornton
McConnell	Worley

Present—Not Voting

Roane

Absent

Bourne	Caldwell
Broadfoot	Celaya

Colson	Howard
Cowley	James
Davisson	Jefferson
of Eastland	King
Dunagan	Lange
Ford	Lemens
Frazer	Pope
Graves	Roberts
Harper	Scarborough
Hartzog	Spears
Hill	Stanfield
Hofheinz	Stovall

Absent—Excused

Jackson	Padgett
McKee	

PAIRED

Mr. Roane (present), who would vote "nay," with Mr. Harper (absent), who would vote "yea."

SENATE BILL NO. 11 ON SECOND READING

Mr. McCalla moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that Senate Bill No. 11 be placed on its second reading and passage to third reading, and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—120

Adamson	Dickison
Adkins	Dunlap of Hays
Aikin	Dunlap of Kleberg
Alexander	Dwyer
Alsup	England
Ash	Fain
Atchison	Farmer
Bergman	Fisher
Bradbury	Ford
Bradford	Fox
Bridgers	Gibson
Broyles	Glass
Burton	Graves
Butler of Brazos	Gray
Butler of Karnes	Hankamer
Cagle	Hanna
Calvert	Hardin
Canon	Harris of Archer
Collins	Harris of Dallas
Colquitt	Hartzog
Cooper	Head
Craddock	Hodges
Crossley	Hofheinz
Daniel	Holland
Davis	Hoskins
Davison of Fisher	Hunt
Davisson	Hunter
of Eastland	Hyder

Jones of Atascosa	Reed of Dallas
Jones of Falls	Riddle
Jones of Shelby	Roach of Angelina
Jones of Wise	Roach of Hunt
Keefe	Roane
Knetsch	Roark
Lanning	Roberts
Latham	Rogers
Leath	Russell
Lemens	Rutta
Leonard	Sessions
Lucas	Settle
Luker	Shofner
Mauritz	Smith
McCalla	Spears
McConnell	Steward
McFarland	Stinson
McKinney	Stovall
Moffett	Tarwater
Moore	Tennyson
Morris	Thornton
Morrison	Tillery
Morse	Venable
Newton	Waggoner
Nicholson	Walker
Olsen	Wells
Palmer	Westfall
Patterson	Wood of Harrison
Payne	Wood of Montague
Petsch	Worley
Quinn	Young
Reader	Youngblood
Reed of Bowie	

Nays—1

Lindsey

Absent

Bourne	Herzik
Broadfoot	Hill
Caldwell	Howard
Celaya	Huddleston
Colson	James
Cowley	Jefferson
Dunagan	King
Duvall	Lange
Frazer	Lotief
Fuchs	Pope
Good	Scarborough
Greathouse	Stanfield
Harper	

Absent—Excused

Jackson	Padgett
McKee	

The Speaker then laid before the House, on its second reading and passage to third reading,

S. R. No. 11, A bill to be entitled "An Act amending House Bill No. 10, Regular Session, Forty-first Legislature, 1929; and declaring an emergency."

The bill was read second time, and was passed to third reading.

SENATE BILL NO. 11 ON THIRD READING

The Speaker then laid Senate Bill No. 11 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—127

Adamson	Hodges
Adkins	Hofheinz
Aikin	Holland
Alexander	Hoskins
Alsup	Howard
Ash	Huddleston
Atchison	Hunt
Bergman	Hunter
Bradbury	Hyder
Bradford	Jones of Atascosa
Bridgers	Jones of Falls
Broyles	Jones of Shelby
Burton	Jones of Wise
Butler of Brazos	Keefe
Butler of Karnes	King
Cagle	Knetsch
Calvert	Lanning
Canon	Latham
Collins	Leath
Colquitt	Lemens
Cooper	Leonard
Craddock	Lotief
Crossley	Lucas
Daniel	Luker
Davis	Mauritz
Davison of Fisher	McCalla
Dickison	McConnell
Dunlap of Hays	McFarland
Duvall	McKinney
Dwyer	Moffett
England	Moore
Fain	Morris
Farmer	Morrison
Fisher	Morse
Ford	Newton
Fox	Nicholson
Fuchs	Olsen
Gibson	Palmer
Glass	Patterson
Good	Payne
Graves	Petsch
Gray	Quinn
Greathouse	Reader
Hankamer	Reed of Bowie
Hanna	Reed of Dallas
Hardin	Riddle
Harris of Archer	Roach of Angelina
Harris of Dallas	Roach of Hunt
Hartzog	Roane
Head	Roark
Herzik	Roberts

Rogers	Thornton
Russell	Tillery
Rutta	Venable
Sessions	Waggoner
Settle	Walker
Shofner	Wells
Smith	Westfall
Spears	Wood of Harrison
Steward	Wood of Montague
Stinson	Worley
Stovall	Young
Tarwater	Youngblood
Tennyson	

Nays—1

Lindsey

Absent

Bourne	Frazer
Broadfoot	Harper
Caldwell	Hill
Celaya	James
Colson	Jefferson
Cowley	Lange
Davisson	Pope
of Eastland	Scarborough
Dunagan	Stanfield
Dunlap of Kleberg	

Absent—Excused

Jackson
McKee

Padgett

EXTENDING INVITATION TO HON. FRED HARTLEY

Mr. Jones of Falls offered the following resolution:

Whereas, Austin is being honored by the presence of the Executive Committee of the Texas Junior Bar Association this week-end, and the Honorable Fred Hartley of Waco, Texas, is president of this association; and

Whereas, Mr. Hartley is recognized as an outstanding young Democratic leader of Texas, and will preside over this Executive Session; now, therefore, be it

Resolved, That we extend to the Honorable Fred Hartley an invitation to address this body at 10:30 o'clock a. m., Friday, October 16, 1936, on a subject of his own choosing.

JONES of Falls,
BUTLER of Brazos,
FORD,
CAGLE,
ROBERTS,
HEAD,
JONES of Wise,
HARRIS of Dallas,
HARTZOG.

The resolution was read second time, and was adopted.

HOUSE BILL NO. 19 ON SECOND
READING

Mr. Russell asked unanimous consent of the House to take up for consideration, at this time, House Bill No. 19.

There was objection offered.

Mr. Russell moved that the regular order of business, be suspended, at this time, to take up and have placed on its second reading and passage to engrossment,

H. B. No. 19, A bill to be entitled "An Act amending and re-enacting Subsection 5 of Section 1, Chapter 10, Acts of First Called Session of the Forty-third Legislature relative to the taxes levied on the pari-mutuel wagering system; empowering the County Commissioners' Court to apply funds received under this Act to certain purposes; etc., and declaring an emergency."

The motion prevailed by the following vote:

Yeas—66

Adamson	McFarland
Aikin	McKinney
Alexander	Moffett
Atchison	Moore
Bradford	Morris
Butler of Brazos	Newton
Canon	Nicholson
Cooper	Olsen
Craddock	Quinn
Crossley	Reed of Dallas
Dunlap of Hays	Roach of Angelina
England	Roach of Hunt
Fuchs	Rogers
Gibson	Russell
Gray	Rutta
Harris of Archer	Sessions
Harris of Dallas	Settle
Hartzog	Shofner
Head	Steward
Hodges	Stinson
Holland	Stovall
Hoskins	Tarwater
Hunter	Tennyson
Hyder	Thornton
Jones of Atascosa	Tillery
Lanning	Venable
Latham	Waggoner
Leath	Walker
Lemens	Wells
Leonard	Wood of Harrison
Lindsey	Wood of Montague
Lotief	Worley
Luker	Young

Nays—55

Adkins	Hanna
Alsup	Hardin
Ash	Hofheinz
Bradbury	Howard
Bridgers	Huddleston
Broyles	Hunt
Burton	Jones of Falls
Butler of Karnes	Jones of Wise
Cagle	Keefe
Calvert	Knetsch
Collins	Lucas
Colquitt	Mauritz
Daniel	McCalla
Davis	McConnell
Davison of Fisher	Morse
Dickison	Palmer
Dunlap of Kleberg	Patterson
Duvall	Payne
Dwyer	Reader
Fain	Reed of Bowie
Farmer	Riddle
Fisher	Roark
Ford	Roberts
Fox	Smith
Glass	Spears
Graves	Westfall
Greathouse	Youngblood
Hankamer	

Present—Not Voting

Roane

Absent

Bergman	Herzik
Bourne	Hill
Broadfoot	James
Caldwell	Jefferson
Celaya	Jones of Shelby
Colson	King
Cowley	Lange
Davisson	Morrison
of Eastland	Petsch
Dunagan	Pope
Frazer	Scarborough
Good	Stanfield
Harper	

Absent—Excused

Jackson	Padgett
McKee	

PAIRED

Mr. Roane (present), who would vote "nay," with Mr. Harper (absent), who would vote "yea."

The Speaker then laid House Bill No. 19 before the House, and it was read second time.

Mr. Hankamer raised a point of order, on further consideration of House Bill No. 19, on the ground

that the subject matter contained in the bill has not been submitted by the Governor.

The Speaker sustained the point of order.

HOUSE BILL NO. 3 ON PASSAGE TO ENGROSSMENT

The Speaker laid before the House, as pending business, on its passage to engrossment,

H. B. No. 3, A bill to be entitled "An Act amending Section 2, Acts 1933, Regular Session of Forty-third Legislature, page 409, Chapter 162, House Bill No. 154, as amended by Acts of 1933, Forty-third Legislature, First Called Session, page 43, Chapter 12; increasing the tax on oil; allocating the revenue to the Public School Fund, and for the payment of Old Age Pensions; prescribing a savings clause, and declaring an emergency."

The bill having heretofore been read second time, with amendment by Mr. Roark, pending.

Mr. Reed of Bowie moved the previous question on the pending amendment, and the passage of House Bill No. 3 to engrossment, and the motion was duly seconded.

Question recurring on the motion for the main question, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—46

Alsup	Jones of Wise
Ash	Keefe
Bradbury	Knetsch
Bridgers	Lemens
Broyles	Lindsey
Burton	Lotief
Calvert	Lucas
Crossley	Luker
Daniel	Mauritz
Davis	Morris
Fain	Patterson
Farmer	Payne
Fisher	Petsch
Ford	Reader
Fuchs	Reed of Bowie
Glass	Roach of Hunt
Graves	Roark
Hardin	Spears
Hofheinz	Stovall
Huddleston	Venable
Hunt	Waggoner
Jones of Falls	Wood of Harrison
Jones of Shelby	Youngblood

Nays—70

Adamson	Jones of Atascosa
Adkins	King
Aikin	Lanning
Alexander	Latham
Atchison	McCalla
Bergman	McConnell
Bradford	McKinney
Butler of Karnes	Moffett
Cagle	Moore
Canon	Morrison
Collins	Morse
Colquitt	Nicholson
Cooper	Olsen
Craddock	Palmer
Davisson	Quinn
of Eastland	Reed of Dallas
Dunagan	Roach of Angelina
Dunlap of Hays	Roberts
Duvall	Rogers
Dwyer	Russell
Fox	Rutta
Gibson	Sessions
Greathouse	Settle
Hankamer	Smith
Hanna	Steward
Harris of Archer	Stinson
Harris of Dallas	Tarwater
Hartzog	Tennyson
Herzik	Thornton
Hill	Walker
Hodges	Wells
Holland	Westfall
Hoskins	Wood of Montague
Howard	Worley
Hunter	Young
Hyder	

Present—Not Voting

Roane

Absent

Bourne	Harper
Broadfoot	James
Butler of Brazos	Jefferson
Caldwell	Lange
Celaya	Leath
Colson	Leonard
Cowley	McFarland
Davison of Fisher	Newton
Dickison	Pope
Dunlap of Kleberg	Riddle
England	Scarborough
Frazer	Shofner
Good	Stanfield
Gray	Tillery

Absent—Excused

Head	McKee
Jackson	Padgett

PAIRED

Mr. Roane (present), who would vote "nay," with Mr. Harper (absent), who would vote "yea."

By unanimous consent of the House, Mr. Roark was authorized to withdraw the pending amendment offered by himself to House Bill No. 3, from further consideration, and offer the following amendment in lieu thereof:

Amend House Bill No. 3, page 3, between lines 4 and 5 by adding a new Section to be known as Section 1(b), which is to hereafter read as follows:

"Provided that oil produced from marginal wells, as that term is defined by law, shall not pay in excess of two cents (2c) per barrel or two per cent (2%) of the gross production of a barrel of forty-two (42) standard gallons."

ROARK,
HARRIS of Archer.

Mr. Jones of Wise offered the following amendment to the amendment by Mr. Roark:

Amend Roark amendment by adding the following:

"Provided, that if the advantage in this tax levy, granted herein to marginal wells, be determined by the courts to be discriminatory and unreasonable, it is the intention of the Legislature that only this advantage granted such marginal wells shall be voided."

JONES of Wise,
READER.

The amendment was adopted.

Mr. Keefe moved to table the amendment by Mr. Roark.

The motion to table was lost.

Question recurring on the amendment by Mr. Roark, as amended, it was adopted.

Mr. Fox offered the following amendment to the bill:

Amend House Bill No. 3, Section 2, Subsection 7, by striking out lines Nos. 38, 39, and 40 on page 2, and lines 1, 2, 3, and 4, on page 3, and inserting in lieu thereof the following: "Two-eighths of said tax when and as received by the Comptroller shall be paid to the State Treasury of Texas, and placed to the credit of the Public School Fund, and three-eighths of such taxes when and as received by the Comptroller shall be paid to the State Treasury to be placed to the credit of the General Fund of the State, and three-eighths of such taxes when and as received by the Comptroller shall be paid to the

State Treasury to be placed to the credit of such fund as the Legislature may create for the payment of Old Age Pensions."

FOX,
ALSUP.

Mr. Hanna moved to table the amendment.

The motion to table was lost.

Question recurring on the amendment, it was adopted.

Question—Shall House Bill No. 3 pass to engrossment?

EXPRESSING SYMPATHY TO MISS SECHREST BERGMAN

Mr. Jones of Wise offered the following resolution:

Whereas, Miss Sechrest Bergman on last evening underwent a serious operation and is now critically ill at the Seton Infirmary in Austin; and

Whereas, Miss Bergman is the daughter of our esteemed fellow-member, Carl Bergman; now, therefore, be it

Resolved, By the House of Representatives, That we express our sympathies to our fellow-member and his family, and our hope for the speedy recovery of Miss Bergman; and be it further

Resolved, That the Chief Clerk of the House be instructed to send an appropriate floral offering to Miss Bergman on behalf of the Members of the House.

The resolution was read second time, and was unanimously adopted.

MESSAGE FROM THE SENATE

Austin, Texas, October 15, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

H. C. R. No. 5, Granting Mike Martin of Weatherford, Texas, permission to sue the State of Texas for damages.

H. C. R. No. 6, Granting W. L. Walker of Hamlin, Jones County, Texas, permission to bring suit against the State of Texas and the State Highway Commission for damages.

H. C. R. No. 9, Granting the State Life Insurance Company of Indian-

apolis, Indiana, permission to sue the State Highway Commission and/or the State of Texas.

H. C. R. No. 10, Granting T. G. Allen of Navarro County, Texas, permission to maintain and prosecute suit against the State Highway Commission of Texas.

H. C. R. No. 11, Granting W. D. Hill and wife, Willie Hill, of Carthage, Panola County, Texas, permission to bring suit against the State of Texas and the State Highway Commission for damages suffered in removing certain buildings.

H. C. R. No. 14, Granting Mrs. Gertrude Pugh of Mineola, Wood County, Texas, permission to sue the State of Texas and the State Highway Department for loss received in the death of her husband while employed by the State.

H. C. R. No. 12, Granting Odis Wade of Perrin, Jack County, Texas, permission to bring suit against the State of Texas and the State Highway Department for damages.

H. C. R. No. 13, Granting Mrs. Virginia Thomas, Jacksboro, Jack County, Texas, permission to bring suit against the State of Texas and the State Highway Department for loss received in the death of her husband and son while in the employment of the State Highway Department.

Respectfully,
BOB BARKER,
Secretary of the Senate.

TO REQUEST CERTAIN COMMITTEE TO REPORT

Mr. Roberts offered the following resolution:

Whereas, Pursuant to House Simple Resolutions Nos. 12 and 19, a committee of the House was authorized to make certain investigations under the terms of said resolution; now, therefore, be it

Resolved, That the committee be required to cease its labors and report to the House immediately.

ROBERTS,
HOFHEINZ,
CAGLE,
JONES of Wise,
TARWATER,
MAURITZ.

The resolution was read second time.

Mr. Quinn raised a point of order, on further consideration of the resolution, at this time, on the ground that the time for the consideration of resolutions has expired.

Question—Shall the point of order be sustained?

RECESS

On motion of Mr. Tennyson, the House at 12:00 o'clock m., took recess to 2:00 o'clock p. m., today.

AFTERNOON SESSION

The House met at 2:00 o'clock p. m., and was called to order by Speaker Stevenson.

LEAVES OF ABSENCE GRANTED

(By unanimous consent.)

Mr. Stovall was granted leave of absence for this afternoon, on account of illness, on motion of Mr. McConnell.

Mr. Jones of Atascosa was granted leave of absence for this afternoon, on account of illness, on motion of Mr. Davis.

HOUSE BILLS ON FIRST READING

The following House bills introduced today, (by unanimous consent) were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Russell:

H. B. No. 48, A bill to be entitled "An Act amending and re-enacting Subsection 5 of Section 1, Chapter 10, Acts of First Called Session of the Forty-third Legislature relative to the taxes levied on the pari-mutuel wagering system, etc., and declaring an emergency."

Referred to the Committee on Revenue and Taxation.

By Mr. Worley:

H. B. No. 49, A bill to be entitled "An Act amending and re-enacting Subsection 5 of Section 1, Chapter 10, Acts of First Called Session of the Forty-third Legislature relative to the taxes levied on the pari-mutuel wagering system; empowering the County Commissioners' Court to apply funds received under this Act to certain purposes; repealing all laws in conflict herewith; and declaring an emergency".

Referred to the Committee on Revenue and Taxation.

By Mr. Mauritz:

H. B. No. 50, A bill to be entitled "An Act requiring owners of real estate or other taxable property, or their agents or representatives in rendering same for ad valorem taxation to give the post office address of the owner or owners of said property at the time of such rendition; providing a penalty for failure to render such property in the manner herein prescribed, and declaring an emergency."

Referred to the Committee on Revenue and Taxation.

HOUSE BILL NO. 3 ON PASSAGE TO ENGROSSMENT

The House resumed consideration of pending business, same being House Bill No. 3, to amend certain law in regard to increasing tax on oil.

The bill having heretofore been read second time.

Mr. Keefe offered the following amendment to the bill:

Amend House Bill No. 3, by adding after the words "marginal wells" in Section 1-B thereof the words "producing 10 barrels or less."

Mr. Roark moved to table the amendment.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—45

Adamson	Hartzog
Alexander	Hunter
Atchison	Hyder
Bergman	James
Bradford	Lanning
Butler of Karnes	Latham
Celaya	Leonard
Collins	McConnell
Colquitt	McFarland
Colson	McKinney
Crossley	Moffett
Davisson	Moore
of Eastland	Morrison
Duvall	Roark
Fisher	Rogers
Fox	Settle
Gibson	Shofner
Greathouse	Smith
Hankamer	Steward
Harris of Archer	Stinson

Tennyson
Thornton
Walker

Wells
Worley
Young

Nays—65

Adkins	Jones of Wise
Aikin	Keefe
Alsup	King
Ash	Lemens
Bradbury	Lindsey
Bridgers	Lotief
Broyles	Lucas
Burton	Luker
Cagle	McCalla
Canon	Morris
Craddock	Nicholson
Daniel	Olsen
Davis	Palmer
Davison of Fisher	Patterson
Dickison	Reader
Dwyer	Reed of Bowie
England	Reed of Dallas
Fain	Roach of Angelina
Farmer	Roach of Hunt
Ford	Roberts
Glass	Russell
Graves	Rutta
Gray	Scarborough
Hardin	Sessions
Harris of Dallas	Spears
Herzik	Tarwater
Hodges	Venable
Hofheinz	Waggoner
Hoskins	Westfall
Huddleston	Wood of Harrison
Hunt	Wood of Montague
Jones of Falls	Youngblood
Jones of Shelby	

Absent

Bourne	Howard
Broadfoot	Jefferson
Butler of Brazos	Knetsch
Caldwell	Lange
Calvert	Leath
Cooper	Mauritz
Cowley	Morse
Dunagan	Newton
Dunlap of Hays	Payne
Dunlap of Kleberg	Petsch
Frazer	Pope
Fuchs	Quinn
Good	Riddle
Hanna	Roane
Harper	Stanfield
Hill	Tillery
Holland	

Absent—Excused

Head	McKee
Jackson	Padgett
Jones of Atascosa	Stovall

(Mr. Alexander in the Chair.)

Question recurring on the amendment by Mr. Keefe, yeas and nays were demanded.

The amendment was adopted by the following vote:

Yeas—75

Adkins	Jones of Shelby
Aikin	Jones of Wise
Alsup	Keefe
Ash	Knetsch
Atchison	Leath
Bradbury	Lemens
Bradford	Lindsey
Bridgers	Lotief
Broyles	Lucas
Burton	Luker
Cagle	Mauritz
Calvert	McCalla
Canon	Morris
Cowley	Newton
Craddock	Nicholson
Daniel	Olsen
Davis	Palmer
Davison of Fisher	Patterson
Dickison	Payne
Dwyer	Reader
England	Reed of Bowie
Fain	Reed of Dallas
Farmer	Roach of Angelina
Fisher	Roach of Hunt
Ford	Russell
Fox	Rutta
Gibson	Scarborough
Glass	Sessions
Graves	Shofner
Gray	Smith
Greathouse	Spears
Hardin	Tarwater
Herzik	Venable
Hodges	Waggoner
Hofheinz	Westfall
Huddleston	Wood of Harrison
James	Youngblood
Jones of Falls	

Nays—45

Adamson	Hankamer
Alexander	Hanna
Bergman	Harris of Archer
Butler of Karnes	Harris of Dallas
Collins	Hartzog
Colquitt	Hill
Colson	Hunt
Cooper	Hunter
Crossley	Hyder
Davison	Jefferson
of Eastland	Lanning
Dunlap of Hays	Latham
Dunlap of Kleberg	Leonard
Duvall	McConnell
Frazer	McFarland
Fuchs	Moffett

Moore	Stinson
Morrison	Tennyson
Roark	Thornton
Roberts	Walker
Rogers	Wells
Settle	Worley
Steward	Young

Present—Not Voting

Roane

Absent

Bourne	King
Broadfoot	Lange
Butler of Brazos	McKinney
Caldwell	Morse
Celaya	Petsch
Dunagan	Pope
Good	Quinn
Harper	Riddle
Holland	Stanfield
Hoskins	Tillery
Howard	Wood of Montague

Absent—Excused

Head	McKee
Jackson	Padgett
Jones of Atascosa	Stovall

PAIRED

Mr. Roane (present), who would vote "nay", with Mr. Harper (absent), who would vote "yea".

(Speaker in the Chair.)

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and with the body of the bill.

House Bill No. 3 was then passed to engrossment by the following vote:

Yeas—87

Adamson	Davis
Adkins	Davison of Fisher
Aikin	Dickison
Alexander	England
Alsup	Fain
Ash	Farmer
Bradbury	Fisher
Bridgers	Ford
Broyles	Fox
Burton	Fuchs
Butler of Karnes	Glass
Cagle	Graves
Calvert	Gray
Canon	Greathouse
Celaya	Hardin
Collins	Harris of Dallas
Cowley	Herzik
Craddock	Hodges
Crossley	Hofheinz
Daniel	Hoskins

Huddleston	Payne
Hunter	Petsch
James	Quinn
Jones of Falls	Reader
Jones of Shelby	Reed of Bowie
Jones of Wise	Reed of Dallas
Keefe	Roach of Angelina
Knetsch	Roach of Hunt
Leath	Roark
Lemens	Roberts
Leonard	Russell
Lindsey	Rutta
Lotief	Sessions
Lucas	Settle
Luker	Spears
Mauritz	Stinson
McConnell	Tarwater
Moore	Venable
Morris	Waggoner
Morrison	Westfall
Newton	Wood of Harrison
Olsen	Young
Palmer	Youngblood
Patterson	

Nays—30

Atchison	Hill
Bergman	Lanning
Bradford	Latham
Colquitt	McCalla
Colson	McFarland
Cooper	Moffett
Dunlap of Hays	Morse
Dunlap of Kleberg	Nicholson
Duvall	Rogers
Frazer	Scarborough
Gibson	Steward
Hankamer	Tennyson
Hanna	Thornton
Harris of Archer	Walker
Hartzog	Worley

Present—Not Voting

Roane

Absent

Bourne	Hyder
Broadfoot	Jefferson
Butler of Brazos	King
Caldwell	Lange
Davisson	McKinney
of Eastland	Pope
Dunagan	Riddle
Dwyer	Shofner
Good	Smith
Harper	Stanfield
Holland	Tillery
Howard	Wells
Hunt	Wood of Montague

Absent—Excused

Head	McKee
Jackson	Padgett
Jones of Atascosa	Stovall

PAIRED

Mr. Roane (present), who would vote "nay", with Mr. Harper (absent), who would vote "yea".

MOTION TO TAKE UP HOUSE
BILL NO. 3

Mr. Reed of Bowie moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 3 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—80

Adamson	Jones of Shelby
Adkins	Jones of Wise
Aikin	Keefe
Alexander	King
Alsup	Knetsch
Ash	Lanning
Bradbury	Lemens
Bridgers	Leonard
Broyles	Lindsey
Burton	Lotief
Butler of Karnes	Lucas
Cagle	Luker
Calvert	Mauritz
Canon	McConnell
Collins	Moore
Cowley	Morris
Craddock	Morrison
Daniel	Newton
Davis	Olsen
Davison of Fisher	Palmer
Dickison	Patterson
England	Payne
Fain	Quinn
Farmer	Reader
Fisher	Reed of Bowie
Ford	Reed of Dallas
Fox	Roach of Angelina
Glass	Roach of Hunt
Graves	Roark
Gray	Russell
Greathouse	Rutta
Hardin	Sessions
Harris of Dallas	Settle
Herzik	Spears
Hodges	Stinson
Hofheinz	Venable
Hoskins	Waggoner
Huddleston	Westfall
Hunt	Wood of Harrison
Jones of Falls	Youngblood

Nays—41

Atchison	Bradford
Bergman	Celaya

Colquitt	Latham
Colson	Leath
Cooper	McCalla
Crossley	McFarland
Davisson	Moffett
of Eastland	Morse
Dunlap of Hays	Nicholson
Dunlap of Kleberg	Roberts
Duvall	Rogers
Dwyer	Scarborough
Gibson	Smith
Hankamer	Steward
Hanna	Tarwater
Harris of Archer	Tennyson
Hill	Thornton
Hunter	Walker
Hyder	Wells
James	Worley
Jefferson	Young

Present—Not Voting

Roane

Absent

Bourne	Howard
Broadfoot	Lange
Butler of Brazos	McKinney
Caldwell	Petsch
Dunagan	Pope
Frazer	Riddle
Fuchs	Shofner
Good	Stanfield
Harper	Tillery
Hartzog	Wood of Montague
Holland	

Absent—Excused

Head	McKee
Jackson	Padgett
Jones of Atascosa	Stovall

PAIRED

Mr. Roane (present), who would vote "nay", with Mr. Harper (absent), who would vote "yea".

Mr. Farmer moved that the House adjourn until 2:45 o'clock p. m., Thursday, October 15.

The motion was lost.

MOTION TO TAKE UP SENATE BILL NO. 5

Mr. Davisson of Eastland moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that Senate Bill No. 5 be placed on its second reading and passage to third reading, and on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—92

Adkins	Lemens
Alexander	Leonard
Alsup	Lotief
Ash	Lucas
Bradbury	Mauritz
Bradford	McCalla
Bridgers	McConnell
Broyles	McFarland
Calvert	Moffett
Celaya	Moore
Cowley	Morris
Crossley	Morse
Daniel	Newton
Davis	Nicholson
Davisson of Fisher	Olsen
Davisson of Eastland	Palmer
Dickison	Patterson
Dwyer	Payne
England	Quinn
Fain	Reader
Farmer	Reed of Bowie
Fisher	Roach of Angelina
Ford	Roach of Hunt
Fuchs	Roark
Gibson	Roberts
Glass	Rogers
Graves	Rutta
Gray	Scarborough
Greathouse	Sessions
Hankamer	Settle
Hardin	Shofner
Harris of Archer	Smith
Hartzog	Spears
Herzik	Steward
Hill	Tarwater
Hofheinz	Tennyson
Huddleston	Thornton
Hunter	Venable
James	Waggoner
Jefferson	Walker
Jones of Falls	Wells
Jones of Wise	Westfall
Keefe	Wood of Harrison
Lanning	Worley
Latham	Young
Leath	Youngblood

Nays—32

Adamson	Duvall
Aikin	Fox
Atchison	Hanna
Bergman	Harris of Dallas
Burton	Hodges
Butler of Karnes	Hoskins
Cagle	Hunt
Canon	Hyder
Colquitt	King
Colson	Knetsch
Cooper	Lindsey
Craddock	Luker
Dunlap of Hays	McKinney

Morrison
Petsch
Reed of Dallas

Roane
Russell
Stinson

Absent

Bourne	Holland
Broadfoot	Howard
Butler of Brazos	Jones of Shelby
Caldwell	Lange
Collins	Pope
Dunagan	Riddle
Dunlap of Kleberg	Stanfield
Frazer	Tillery
Good	Wood of Montague
Harper	

Absent—Excused

Head	McKee
Jackson	Padgett
Jones of Atascosa	Stovall

SENATE BILL NO. 8 ON SECOND
READING

Mr. Aikin moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that Senate Bill No. 8 be placed on its second reading and passage to third reading, and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—115

Adamson	Dickison
Adkins	Dunagan
Aikin	Dwyer
Alexander	England
Alsup	Fain
Ash	Farmer
Atchison	Fisher
Bergman	Ford
Bradbury	Fox
Bradford	Fuchs
Bridgers	Gibson
Broyles	Glass
Burton	Graves
Butler of Karnes	Gray
Cagle	Greathouse
Calvert	Hankamer
Canon	Hanna
Celaya	Hardin
Collins	Harris of Archer
Colquitt	Harris of Dallas
Colson	Hartzog
Cooper	Head
Craddock	Herzik
Crossley	Hill
Daniel	Hodges
Davis	Hoskins
Davison of Fisher	Huddleston
Davisson	Hunt
of Eastland	Hunter

Hyder	Petsch
James	Quinn
Jefferson	Reed of Bowie
Jones of Falls	Reed of Dallas
Jones of Wise	Roach of Angelina
Keefe	Roach of Hunt
King	Roark
Knetsch	Roberts
Lanning	Rogers
Latham	Russell
Leath	Rutta
Lemens	Settle
Lindsey	Smith
Lucas	Spears
Luker	Steward
Mauritz	Stinson
McCalla	Tarwater
McConnell	Tennyson
McFarland	Thornton
Moffett	Venable
Moore	Waggoner
Morris	Walker
Morrison	Wells
Morse	Westfall
Newton	Wood of Harrison
Nicholson	Wood of Montague
Olsen	Worley
Palmer	Young
Patterson	Youngblood

Nays—2

Frazer	Scarborough
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Present—Not Voting

Roane

Absent

Bourne	Jones of Shelby
Broadfoot	Lange
Butler of Brazos	Leonard
Caldwell	Lotief
Cowley	McKinney
Dunlap of Hays	Payne
Dunlap of Kleberg	Pope
Duvall	Reader
Good	Riddle
Harper	Sessions
Hofheinz	Shofner
Holland	Stanfield
Howard	Tillery

Absent—Excused

Jackson	Padgett
Jones of Atascosa	Stovall
McKee	

PAIRED

Mr. Roane (present), who would vote "nay", with Mr. Harper (absent), who would vote "yea".

The Speaker then laid before the House, on its second reading and passage to third reading,

S. B. No. 8, A bill to be entitled "An Act empowering and directing the State Treasurer to sell and liquidate any and all bonds or interest bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States now on deposit in the Permanent Old Age Pension Fund, and declaring an emergency."

The bill was read second time.

Mr. Hankamer offered the following amendment to the bill:

Amend Senate Bill No. 8, Section 2, Page 2, by striking out all of lines 8 and 9 and the words "expended under the law" in line 10, and inserting in lieu thereof the following: "sole purpose of paying Old Age Assistance grants to applicants whose applications have been approved and allowed; and be it further provided that no portion of said money shall be expended for administrative purposes."

Mr. Farmer raised a point of order, on further consideration of the amendment by Mr. Hankamer, on the ground that the subject matter contained in the amendment has not been submitted by the Governor.

The Speaker overruled the point of order.

Mr. Lucas offered the following amendment to the amendment by Mr. Hankamer:

Amend Hankamer Amendment line 10 by adding between the words "been" and "approved" the following: "and may be".

The amendment was adopted.

Question recurring on the amendment as amended, it was adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and with the body of the bill.

Senate Bill No. 8 was then passed to third reading.

SENATE BILL NO. 8 ON THIRD READING

The Speaker then laid Senate Bill No. 8 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—124

Adamson	Alexander
Adkins	Alsup
Aikin	Ash

Atchison	King
Bergman	Knetsch
Bradbury	Lanning
Bridgers	Latham
Broyles	Leath
Burton	Lemens
Butler of Karnes	Leonard
Cagle	Lindsey
Caldwell	Lotief
Calvert	Lucas
Canon	Luker
Celaya	Mauritz
Collins	McCalla
Colquitt	McConnell
Colson	McFarland
Cowley	McKinney
Craddock	Moffett
Crossley	Moore
Daniel	Morris
Davis	Morrison
Davison of Fisher	Morse
Davisson	Newton
of Eastland	Nicholson
Dickison	Palmer
Dunagan	Patterson
Dwyer	Payne
England	Petsch
Fain	Quinn
Farmer	Reader
Fisher	Reed of Bowie
Ford	Reed of Dallas
Fox	Roach of Angelina
Gibson	Roach of Hunt
Glass	Roane
Good	Roark
Graves	Roberts
Gray	Russell
Greathouse	Rutta
Hankamer	Scarborough
Hanna	Sessions
Hardin	Settle
Harris of Archer	Shofner
Harris of Dallas	Smith
Hartzog	Spears
Head	Steward
Herzik	Stinson
Hill	Tarwater
Hodges	Tennyson
Hofheinz	Thornton
Holland	Venable
Hoskins	Waggoner
Huddleston	Walker
Hunt	Wells
Hunter	Westfall
Hyder	Wood of Harrison
James	Wood of Montague
Jefferson	Worley
Jones of Falls	Young
Jones of Wise	Youngblood
Keefe	

Nays—3

Cooper	Frazer
Dunlap of Hays	

Absent

Bourne	Jones of Shelby
Bradford	Lange
Broadfoot	Olsen
Butler of Brazos	Pope
Dunlap of Kleberg	Riddle
Duvall	Rogers
Fuchs	Stanfield
Harper	Tillery
Howard	

Absent—Excused

Jackson	Padgett
Jones of Atascosa	Stovall
McKee	

SENATE BILL NO. 5 ON SECOND READING

Mr. Davisson of Eastland moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that Senate Bill No. 5 be placed on its second reading and passage to third reading, and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—112

Adamson	Glass
Adkins	Good
Alexander	Gray
Alsup	Greathouse
Ash	Hankamer
Bradbury	Hanna
Bridgers	Hardin
Broyles	Harris of Archer
Butler of Karnes	Harris of Dallas
Cagle	Hartzog
Calvert	Herzik
Celaya	Hill
Collins	Hofheinz
Colson	Holland
Cooper	Hoskins
Cowley	Howard
Craddock	Huddleston
Crossley	Hunt
Daniel	Hunter
Davis	Hyder
Davison of Fisher	James
Davisson	Jefferson
of Eastland	Jones of Shelby
Dickison	Jones of Falls
Dunagan	Jones of Wise
Dwyer	Keefe
England	King
Fain	Knetsch
Farmer	Lanning
Fisher	Latham
Ford	Leath
Fuchs	Lemens
Gibson	Leonard

Lotief

Lucas	Rogers
McCalla	Rutta
McConnell	Scarborough
McFarland	Sessions
McKinney	Settle
Moffett	Shofner
Moore	Smith
Morrison	Spears
Morse	Steward
Newton	Stinson
Nicholson	Tarwater
Olsen	Tennyson
Palmer	Thornton
Patterson	Venable
Payne	Waggoner
Quinn	Walker
Reader	Westfall
Reed of Bowie	Wells
Reed of Dallas	Wood of Harrison
Roach of Angelina	Wood of Montague
Roach of Hunt	Worley
Roark	Young
Roberts	Youngblood

Nays—14

Aikin	Duvall
Atchison	Fox
Bergman	Frazer
Burton	Lindsey
Caldwell	Luker
Canon	Roane
Colquitt	Russell

Absent

Bourne	Lange
Bradford	Mauritz
Broadfoot	Morris
Butler of Brazos	Petsch
Dunlap of Hays	Pope
Dunlap of Kleberg	Riddle
Graves	Stanfield
Harper	Tillery
Hodges	

Absent—Excused

Head	McKee
Jackson	Padgett
Jones of Atascosa	Stovall

The Speaker then laid before the House, on its second reading and passage to third reading,

S. B. No. 5, A bill to be entitled "An Act to create an Unemployment Insurance system for the State of Texas; creating an Unemployment Compensation Fund; providing for collections, deposits, and investments of such funds; providing for withdrawals; providing for custody and management of such funds in certain contingencies; providing regular con-

tributions and penalties; providing that claims for premiums shall have priority over other claims; providing duties of employers and employees, and prescribing penalties; designating recipients of benefits and methods of determining and paying beneficiaries; etc., and declaring an emergency."

The bill was read second time.

Mr. Davisson of Eastland offered the following amendment to the bill:

Amend Senate Bill No. 5 by striking out all below the enacting clause and substitute the following:

Whereas, Distress and unemployment has become a serious menace to the health, safety, morals and general welfare of the people in the State of Texas, because insurance or reserves have not been provided in times of plentiful employment for the support of unemployed employees and their families during periods of unemployment, depression, distress and suffering have spread throughout the State and the Taxpayers have been unfairly burdened with the cost of supporting able bodied workers laid off by employers until such time as they would again be needed. Farmers and rural communities particularly, are unjustly burdened, and increased taxation for the support of salaried workers at the very times when agricultural incomes are reduced by the lack of purchasing power in the urban markets. In years of prosperity, as well as in depression, expenditures of private and public charity organizations for the relief of the unemployed fluctuate according to the fluctuations of unemployment; and in every period of severe unemployment, private charity funds for the care of the unemployed are inadequate. Demands are therefore made and pressure exerted for the appropriation of funds from Treasuries of local and State Governments. Increasing sums are appropriated and paid out in order that suffering may be avoided, thereby increasing expenditures of the said Governments, making taxes burdensome and undermining and destroying initiative responsibility and self-respect of the unemployed and their families;

Whereas, Charities, private and public, although helpful, are inadequate and inappropriate;

Whereas, Public charitable support for able-bodied unemployed and their families is unwise, unsound as a public policy because it means the payment from public treasuries and makes such relief a political issue; that in turn results in burdensome increases in Governmental expenditures;

Whereas, The lack of voluntary provision by private businesses and corporations for the eventuality of unemployment in the association of such savings as are provided, bring about an unfair and unjust distribution of the inevitable cost of unemployment; that industry and commerce are relieved of the expense of maintaining their labor reserves and this expense is met jointly by diverting charity funds from the sick, physically defective, widowed women and orphan children for whom such charity funds are properly maintained. The shifting of the burden to the taxpayer, landlords and tradesmen, who are under the necessity of carrying the unemployed, they in addition to great numbers of city industrial workers are forced to the rural districts to live with their families or to produce agricultural commodities in competition with the rural residents who, because of such unemployment are already suffering from low priced and overflooded markets.

Whereas, In spite of provisions made for unemployment, many families have been broken up, children taken from their parents, placed in institutions because of the lack of employment for their former bread winners; thousands have been forced to go without food, shelter, clothing and have been forced to beg in bread lines, soup kitchens and other emergencies provided by various charities, and hereinabove stated Governments, to prevent starvation. These conditions in turn have resulted in rioting and public demonstrations, manifesting unrest, which otherwise could have been prevented;

Whereas, These dangers to peace, safety and health of the community in turn strike fear in the hearts of those who have employment that they too will be soon out of employment. This in turn, results in those employed contacting their purchases and decreasing the available markets;

Whereas, These conditions, dangers and fears cannot be avoided unless foresighted provision for the unem-

ployed and their families is made in times of plentiful employment on a comprehensive scale by industry and commerce, as well as individual employers, in the form of compulsory unemployment insurance, taken out by the employers for their employees that will be statewide in scope; that such insurance is to be the only method by which the number and the need of the employed can be accurately known and available opportunities for re-employment reliably ascertained; and that such insurance that such employers contribute is the most satisfactory method of avoiding distress and preserving the self-respect, reliance and individual characteristics of the employee; therefore,

Section 1. Contributions.

(a) Payment. (1) On and after January 1, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages payable for employment, as defined in Section 25 (g), occurring during such calendar year. Such contributions shall become due and be paid to the Commission at such times and in such manner as the Commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) Rate of Contribution. Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) Nine-tenths of one per centum with respect to employment during the calendar year 1936;

(2) One and eight-tenths (1.8) per centum with respect to employment during the calendar year 1937;

(3) Two and seven-tenths (2.7) per centum with respect to employment during the calendar years 1938, 1939, 1940; and

(4) With respect to employment after December 31, 1940, the percentage determined pursuant to Subsection (c) of this Section.

(c) Future Rates Based on Benefit Experience. The Commission shall

maintain a separate account for each employer, crediting his account with all the contributions which he has paid on his own behalf during each calendar year and charging his account with all amounts paid within such year as benefits which, under Section 3 of this Act, were charged against weeks of employment in his service. But nothing in this Act shall be construed to grant any employer or his employees prior claims or rights to the amount paid by him to the Unemployment Compensation Fund either on his own behalf or on behalf of his employees. All contributions to the Fund shall be pooled and available to pay benefits to any employee entitled thereto under this Act irrespective of the source of such contributions. The Commission shall, for the year 1941 and for each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such experience. The Commission shall determine the contribution rate of each employer in accordance with the following requirements:

(1) Each employer's rate shall be two and seven-tenths (2.7) per centum, unless and until there shall have been thirty-six (36) consecutive calendar months as of January 1, 1941, or thereafter three (3) calendar years throughout which an individual in his employ could have received benefits if unemployed and eligible.

(2) Each employer's rate for the twelve (12) months commencing January 1st, of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(a) One and eighth-tenths (1.8) per centum, if such excess equals or exceeds seven and one-half ($7\frac{1}{2}$), but is less than ten (10) per centum of his average annual payroll, as defined in Section 25 (a) (2);

(b) Nine-tenths of one per centum, if such excess equals or exceeds ten (10) per centum of his average annual payroll.

If the total of his contributions, paid on his own behalf for all past periods or for the past sixty (60) consecutive calendar months, whichever period is more advantageous to such employer for the purposes of this paragraph, is less than the total benefits charged against his account during the same period, his rate shall be three and six-tenths (3.6) per centum, unless such employer shows to the satisfaction of the Commission that such experience was due to an act of God, fire or other catastrophe or act of civil or military authority, directly affecting the place in which individuals were employed by him, in which case his rate shall be two and seven-tenths (2.7) per centum.

(3) No employer's rate for the period of twelve (12) months commencing January 1st of any calendar year shall be less than two and seven-tenths (2.7) per centum, unless the total assets of the Fund excluding contributions not yet paid at the beginning of such calendar year exceed the total benefits paid from the Fund within the last preceding calendar year; and no employer's rate shall be less than one and eight-tenths (1.8) per centum unless such assets at such time were at least twice the total benefits paid from the Fund within such last preceding year.

Sec. 2. Wherever in this Act there appear provisions for the levying and collection of taxes, and/or contributions from employers of labor, the same shall be construed as applying solely to such taxes and/or contributions required of employers of labor under the Federal Social Security Act with regard to Unemployment Compensation or Insurance, and shall not at any time be construed as being a separate and independent levy of such a tax or requirement of contribution on or from employers of labor for such purposes by the State of Texas.

Sec. 3. Collection of Contributions. (a) Interest on Past Due Contributions. Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall bear interest at the rate of one per centum per month from and after such date until payment plus accrued interest is received by the Commission provided that the Commission may prescribe fair and reasonable general rules pursuant to which such interest shall not accrue during the first cal-

endar year that any employer is subject to this Act. Interest collected pursuant to this Subsection shall be paid into the Fund's pooled account.

(b) Collection. If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the Commission, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this Section to collect contributions or interest thereon from an employer shall be heard by the Court at the earliest possible date and shall be entitled to preference upon the calendar of the Court over all other civil actions except petitions for judicial review under this Act and cases arising under the Workmen's Compensation Law of this State.

(c) Priorities under Legal Dissolutions or Distributions. In the event of any distribution of an employer's assets pursuant to an order of any Court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contribution then or thereafter due shall be paid in full prior to all other claims except taxes but on a parity with claims for wages of not more than Two Hundred and Fifty Dollars (\$250) to each claimant, earned within six (6) months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contribution then or thereafter due shall be entitled to such priority as is provided in Section 64 (b) of that Act, U. S. Code, Title 11, Section 104 (b) as amended.

If any employer shall default in any payment required of him under the provisions of this Act, he shall become additionally liable for interest on such payments at ten (10) per cent per annum when date of such payment came due and such interest to be paid to the Administration Fund. If, after due notice of this, payment, plus interest at ten (10) per cent per annum, is not made, it shall be collected by civil action in the name of the State, the defaulting employer to pay the cost of such action. The payments originally due shall be paid to the Commission and credited

as may be proper in each case, either to the Fund and to the defaulting employer's account, and the penalties collected shall be paid to the administration and the interest thus collected shall be paid to the Administration Fund.

Sec. 4. Penalties. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this Act, either for himself or for any other person, shall be punished by a fine of not less than Twenty (\$20) Dollars nor more than Fifty (\$50) Dollars, or by imprisonment for not longer than thirty (30) days, or by both such fine and imprisonment, and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto, or to avoid or reduce any contribution or other payment required from an employing unit under this Act, or who wilfully fails or refuses to make any such contributions or other payment, or to furnish any reports required hereunder, or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than Twenty (\$20) Dollars nor more than Two Hundred (\$200) Dollars, or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

(c) Any person who shall wilfully violate any provision of this Act, or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a penalty is neither prescribed herein nor provided by any other applicable Statute, shall be punished by a fine of not less than Twenty (\$20) Dollars nor more than Two Hundred

(\$200) Dollars, or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(d) Any person who, by reason of the non-disclosure or misrepresentation by him or by another, of a material fact, (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent) has received any sum as benefits imposed by this Act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall be liable to repay to the Commission for the Unemployment Compensation Fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in Section 2 (b) of this Act for the collection of past due contributions.

Sec. 4-A. Bankruptcy. The taxes herein imposed shall have priority on equal basis with other taxes over creditors in bankruptcy.

Sec. 5. Unemployment Compensation Fund. (a) Establishment and Control. There is hereby established a special fund to be known as the Unemployment Compensation Fund which shall be administered separate and apart from all public moneys or funds of the State. All moneys which are deposited or paid into this Fund are hereby appropriated and made available to the Commission for the purposes enumerated under the provisions of this Act. This Fund shall consist of all contributions and moneys paid into or received by it for the payment of benefits; of any property or securities acquired through the use of moneys belonging to the Fund, and of interest earned upon any moneys paid into or received by it. All moneys in such Fund shall be mingled and undivided. Subject to the provisions of this Act, the Commission is hereby vested with full power, authority, and jurisdiction over the Fund, including all moneys and property or securities belonging thereto, and may perform any and all acts, whether or not herein specifically designated, which are necessary or convenient in the administration thereof consistent with the provisions of this Act.

Sec. 6. Withdrawals. The Fund shall be administered exclusively for the purposes of this Act, and moneys

withdrawn therefrom, except for deposit in the Unemployment Trust Fund as provided in this Act, shall be used solely for the payment of benefits. Payment of benefits shall be made in accordance with the rules prescribed by the Commission consistent with the provisions of this Act. (Withdrawals from the Fund shall not be subject to any provisions of law requiring specific appropriations or other formal release by State officers of moneys in their custody).

Sec. 7. Collection, Deposit and Investment. The State Treasurer shall be ex-officio the Treasurer and Custodian of the Fund, who shall administer the Fund in accordance with the provisions of this Act and the directions of the Commission and shall pay all warrants drawn upon it in accordance with such rules as the Commission may prescribe. All contributions, upon receipt thereof by the Commission, shall be forwarded to the Treasurer, who shall immediately deposit them together with any moneys earned thereby while in his custody, and any other moneys received by him for the payment of benefits from any source other than the Unemployment Trust Fund, with the Secretary of the Treasurer of the United States of America, to the credit of the Unemployment Trust Fund established and maintained pursuant to Section 904 of the Social Security Act, as amended, (any provision of law in this State relating to the deposit, administration, release or disbursement of moneys in the possession or custody of the State or moneys deposited in any fund created by the State to the contrary notwithstanding). All moneys belonging to the Unemployment Compensation Fund, and not otherwise deposited, invested or paid over pursuant to the provisions of this Act, may be deposited by the Treasurer under the direction of the Commission, in any banks or public depositories in which general funds of the State may be deposited, but no public deposit, insurance charge, or premium shall be paid out of moneys in the Unemployment Compensation Fund, any other provision of law to the contrary notwithstanding. The Treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the Fund in an amount to be fixed by the Commission, and in a form prescribed by

law or approved by the Attorney General. Premiums for the said bond shall be paid as provided in Section 21 of this Act.

Sec. 8. Withdrawal of Funds for Payment of Benefits.

The Commission through the Treasurer acting as its fiscal agent shall requisition from time to time from the Unemployment Trust Fund such amounts, not exceeding the amount standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period, but for no other purpose. Upon receipt thereof the Treasurer shall deposit such moneys in the Unemployment Compensation Fund in a special benefit account, and shall issue his warrants for the payment of benefits. All warrants issued by the Treasurer shall bear the countersignature of a member of the Commission or its duly authorized agent for that purpose. Any balance of moneys so requisitioned which remains unclaimed or unpaid in the special benefit account of the Unemployment Compensation Fund after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of the Unemployment Trust Fund, as provided in Subsection (c) of Section 5.

Sec. 9. Management of Funds Upon Discontinuance of Unemployment Trust Fund. The Provisions of Sections 3, 4, 4-A, and 5, to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this States proportionate share of the earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties or securities therein, belonging to the Unemployment Compensation

Fund, of this State shall be transferred to the Treasurer of the Unemployment Compensation Fund who shall hold, invest, transfer, sell, deposit and release such moneys, properties or securities in a manner approved by the Commission, in accordance with the provisions of this Act, provided that such moneys shall be invested in the following readily marketable classes of securities: Bonds or other interest bearing obligations of the United States of America, and provided further that such investment shall at all times be so made that all the assets of the Fund shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commission.

Sec. 10. Premiums. On or before the 1st day of January of each succeeding year, premiums for insurance in the Fund shall accrue and become payable by every employer subject to this Act and in accordance with its provisions. All premiums payable under this Act shall be paid into the Commission in the manner prescribed by the Commission and shall be paid over promptly by the Commission to the State Treasurer, who shall credit them to the said Fund.

Sec. 11. Investments. The Commission shall have the power to invest any of the surplus or reserve belonging to the Fund in the following manner:

In bonds or obligations of the United States.

That all securities so purchased shall forthwith be placed in the possession of the State Treasurer. The Treasurer shall honor and pay all vouchers drawn on the Fund by the Commission for the payment of such securities upon delivery of said securities to him, provided there is attached to such vouchers, a certified copy of a resolution of the Commission authorizing the purchase of such securities. The Commission shall have the power to sell any of said securities and the Treasurer of the State shall make delivery thereof upon like presentation to him of certified copy of resolution of the Commission, and the proceeds of any sale shall be paid by the purchaser to the State Treasurer upon the delivery of such securities.

Sec. 12. Record of Payrolls for Employees. Every employer within the provisions of this Act shall keep a true and accurate employment record of all his employees and the hours worked for him by each and the wages paid by him to each employee, and shall furnish to the Commission upon demand, a sworn statement of same. Such record shall be open to the inspection of the Commission or its authorized representatives at any reasonable time.

Sec. 13. Benefits.

(a) **Payment of Benefits.** Twenty-four (24) months after the date when contributions, as defined in Section 25 (d), first accrue under this Act from any employer, as defined in Section 25 (f), benefits shall become payable from the Fund, as defined in Section 25 (i), to any individual who thereafter is or becomes unemployed and eligible for benefits. All benefits shall be paid through the employment offices, at such times and in such manner as the Commission may prescribe.

(b) **Weekly Benefit Amount for Total Unemployment.** Each eligible individual who is totally unemployed, as defined in Section 25 (1), in any week shall be paid with respect to such week, benefits (computed to the next highest multiple of twenty (20) cents) at the rate of fifty (50) per centum of his full-time weekly wages, as defined in Subsection (f) of this Section, but not more than Fifteen Dollars (\$15) per week, nor less than either Five Dollars (\$5) or three-fourths of his full-time weekly wage, whichever is the lesser.

(c) **Weekly Benefit for Partial Unemployment.** Each eligible individual who is partially unemployed, as defined in Section 25 (j), in any week shall be paid a partial benefit. Such partial benefit shall be an amount (computed to the next highest multiple of twenty (20) cents) equal to the difference between his weekly benefit amount, as defined in Section 25 (q), and five-sixths of his wages, as defined in Section 25 (n), for such week.

(d) **Charging of Benefits against Past Weeks of Employment.** Each individual's benefits shall be limited in accordance with the ratio provisions of Subsection (e) of this Section. In no event shall any one calendar week be chargeable as more than one week

of employment (as defined in Section 25). If during any one calendar week an individual has rendered services for two or more employers, his benefits shall be chargeable for such week against any such employer in proportion to the amount of wages paid him by such employer during such week. An individual's benefit shall be charged against those of his weeks of employment, against which benefits have not previously been charged hereunder, in the inverse chronological order in which such weeks occurred, provided that:

(1) If the amount chargeable against a particular week of employment under the provisions of Subsection (e) (1) of this Section equals less than one-eighth of his weekly benefit amount, or, under the provisions of Subsection (e) (2) of this Section, equals less than one-fortieth of his weekly benefit amount, no week of employment shall be chargeable therewith; and

(2) If the amount chargeable against a particular week of employment under the provisions of Subsection (e) (1) of this Section equals one-eighth of his weekly benefit amount, or more, or under the provisions of Subsection (e) (2) of this Section, equals one-fortieth of his weekly benefit amount, or more, such week of employment shall be charged in full.

(e) Ratio Provisions and Duration of Benefits. Benefits shall be paid each unemployed and eligible individual, with respect to his total or partial unemployment occurring within any period of fifty-two (52) consecutive weeks;

(1) In the ratio of one-fourth of his weekly benefit amount to each uncharged week of employment occurring within the one hundred and four (104) consecutive weeks preceding the close of his most recent week of employment, except that his aggregate benefits thus payable shall not exceed fifteen (15) times his weekly benefit amount; and thereafter

(2) In the ratio of one-twentieth of his weekly benefit amount to each uncharged week of employment occurring within the two hundred and sixty (260) consecutive weeks preceding the close of his most recent week of employment.

(f) Determination of Full-Time Weekly Wage. The "full-time weekly

wage" of any individual means the product obtained by multiplying his "hourly rate of earnings" by his "full-time weekly hours," both of which shall be determined and redetermined at reasonable intervals in accordance with rules prescribed by the Commission.

(1) An individual's "full-time weekly hours" shall be determined as follows: There shall be added together the hours worked by the individual in all those weeks of employment, in which he worked thirty (30) hours or more. Such total hours shall be divided by the number of such weeks, and the resulting weekly average shall constitute the employee's full-time weekly hours, until a subsequent determination is made. If the application of the above method would be unreasonable or arbitrary as applied to a particular individual, the "full-time weekly hours" for such individual shall be determined in accordance with fair and reasonable methods prescribed by the Commission.

(2) An individual's "hourly rate of earnings" shall be determined by dividing his total wages for all his weeks of employment during which he was employed for at least his full-time weekly hours, occurring within the fifty-two (52) weeks preceding the close of his most recent week of employment, by the total number of hours of employment within such weeks; the quotient so obtained shall be his hourly rate of earnings until a subsequent determination is made, provided that if the application of such method of determination would be unreasonable or arbitrary as applied to a particular individual, the "hourly rate of earnings" of such individual shall be determined in accordance with fair and reasonable methods prescribed by the Commission.

(3) The Commission may, after fair notice and opportunity to be heard, determine the full-time weekly hours customarily worked, or the hourly rate of earnings customarily received, or both, by employees in any trade or industry or any type of employment therein, in this State, in any part of this State, or in any establishment in this State. Such determination shall be made and published in accordance with the provisions of this Act for general Commission rules. Thereafter, until such determination is

amended or rescinded, such weekly hours or such hourly rate of earnings, or both, shall be deemed to be the full-time weekly hours or the hourly rate of earnings, or both, of any individual employed in such trade or industry or type of employment or establishment for the greater part of his working time occurring within the fifty-two (52) consecutive weeks preceding the close of his most recent week of employment, provided that, upon showing of good cause therefor, the Commission may exempt any such individual from the application of such determination if it finds that the application thereof to him would be impracticable or inequitable.

Sec. 14. Benefit Eligibility Conditions. An unemployed individual shall be eligible to receive benefits with respect to any week only if it has been found by the Commission that:

(a) He has made a claim for benefits in accordance with the provisions of Section 16 (a) of this Act.

(b) He has registered for work at the employment office designated by the Commission within such time limits and with such frequency and in such manner (such as in person or in writing) as the Commission may by general rule prescribe, provided that failure to comply with this condition may be excused by the Commission upon a showing of good cause therefor.

(c) He is physically and mentally able to work, and is available for work.

(d) Prior to any week for which he claims benefits for total unemployment, he has been totally unemployed for a waiting period of at least two (2) weeks with respect to which he received no benefits but during which he was eligible for benefits in all other respects, except for the requirements of Subsections (a) and (b) of this Section, and was not ineligible for benefits under any provision of Section 6 of this Act.

(e) He has had at least thirteen (13) weeks of employment within the fifty-two (52) consecutive weeks preceding the close of his most recent week of employment.

Sec. 15. Disqualification for Benefits.

An individual shall be ineligible for benefits:

(a) For the week in which he has left work voluntarily without good cause, if so found by the Commission, and for not less than one nor more than the five (5) next following weeks (in addition to the waiting period), as determined by the Commission according to the circumstances in each case.

(b) For the week in which he has been discharged for misconduct, if so found by the Commission, and for not less than one nor more than the nine (9) next following weeks, (in addition to the waiting period), as determined by the Commission in each case according to the seriousness of the misconduct.

(c) If the Commission finds that, being totally unemployed and otherwise eligible for benefits, he has failed, without good cause, either to apply for available, suitable work so directed by the employment office or the Commission, or to accept suitable work when offered him by the employment office, or by an employer, or to return to his customary self-employment (if any) when so directed by the Commission. Such ineligibility shall continue for the week in which such failure occurred and for not less than one nor more than the five (5) next following weeks (in addition to the waiting period), as determined by the Commission according to the circumstances in each case.

(1) Work or self-employment shall be deemed suitable only if the Commission finds that it can reasonably be expected to yield the individual total wages greater than his weekly benefit amount. In determining whether or not such work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training and experience, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this Act, no employment shall be deemed suitable, and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(d) For any week in which it is found by the Commission that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he is or was last employed, provided that this Subsection shall not apply if it is shown to the satisfaction of the Commission that:

1. He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

2. He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; and provided further that, if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall for the purposes of this Subsection be deemed to be a separate factory, establishment or other premises.

(e) For any week with respect to which the individual is receiving or has received remuneration in the form of:

1. Wages in lieu of notice, or any payment by way of compensation for the loss of wages;

2. Compensation for temporary partial disability under the Workmen's Compensation Law of any state or under a similar law of the United States; or

3. Old Age Benefits under Title II of the Social Security Act, as amended.

Provided that, if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week if otherwise eligible,

benefits reduced by the amount of such remuneration.

Sec. 16. Claim for Benefits.

(a) Filing. Claims for benefits shall be made in accordance with such rules as the Commission may prescribe, at the employment office nearest either to the individual's place of residence or to the place of his most recent employment. If the individual is partially unemployed, the Commission may waive the filing of a claim directly by the individual himself if due notice of his unemployment is given to the Commission by the employer, or is given to the employer by the Commission, and such notice shall serve as a claim for benefits. An employer shall give to each of his employees at the time such employee becomes totally unemployed, a printed statement of the rules prescribed by the Commission relating to the filing of claims for benefits. Such printed statements shall be supplied by the Commission to each employer without cost to him.

(b) Initial Determination. A deputy or representative designated by the Commission, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of the facts found by him, may determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or may refer such claim to an appeal tribunal or to the Commission, which shall make the same determinations with respect thereto in accordance with procedure prescribed in Subsection (c) of this Section. He shall promptly notify the claimant and his most recent employer of the decision and the reasons therefor. Unless the claimant or his most recent employer, within five (5) calendar days after the delivery of such notification, or within seven (7) calendar days after such notification was mailed to his last known address, files an appeal from such decision and applies for a hearing, such decision shall be final and benefits shall be paid or denied in accordance therewith. In the event that a hearing is requested, the payment of any benefits with respect to the period prior to the final determination of the Commission, shall be made only after such determination; provided that if an ap-

peal tribunal affirms a decision of a deputy, or the Commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

(c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the deputy. The parties shall be duly notified of such tribunal's decision, which shall be deemed to be the final decision of the Commission, unless within ten (10) days after the date of such decision, the Commission acts on its own motion, or permits any of the parties to initiate further appeal or review.

(d) Appeal Tribunals. To hear and decide disputed claims, the Commission shall establish one or more impartial appeal tribunals consisting in each case of either a full-time salaried examiner, a Commissioner, or a board consisting of three members, one of whom shall be a full-time salaried examiner, or a Commissioner who shall serve as Chairman, one of whom shall be an employer or representative of employers and the other an employee or representative of employees; each of the latter two members shall serve at the pleasure of the Commission and be paid a fee of not more than Ten (\$10) Dollars per day of active service on such tribunal plus necessary expenses. No person shall participate on behalf of the Commission in the hearing of any case in which he is an interested party. The Commission may designate an alternate to serve in the absence or disqualification of any member of an appeal tribunal. The Chairman shall act alone in the absence or disqualification of any other member and his alternate. In no case shall the hearings proceed unless the Chairman of the appeal tribunal is present. In the event that a Commissioner serves as a member of any appeal tribunal, such service shall not disqualify him for participating in a decision in the same case by the Commission as a body.

(e) Commission Review. The Commission shall have the power to remove or transfer the proceedings on

any claim pending before an appeal tribunal; and may on its own motion (within ten (10) days after the date of any decision by an appeal tribunal) affirm, modify, or set aside any such decision on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence.

(f) Continuous Jurisdiction. Jurisdiction over benefits shall be continuous. Upon its own initiative, or upon application of any party in interest, on the ground of a change in conditions, or because of a mistake as to fact, the Commission may at any time review an award of benefits or the denial of a claim therefor, in accordance with the procedure prescribed in respect to claims, and in accordance with such review, issue a new decision which may award, terminate, continue, increase or decrease such benefits. Such new order shall not affect any benefits paid before the date thereof under authority of the prior order and shall be subject to review as provided in this Section.

(g) Procedure. The manner in which claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the Commission for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be reduced to writing, but need not be transcribed unless the disputed claim is further appealed.

(h) Oaths and Witnesses. In the discharge of the duties imposed by this Act, the Chairman of an appeal tribunal or duly authorized representative of the Commission as designated by its rules shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with the disputed claim or the administration of this Act.

(i) Subpoenas. In case of contumacy by, or refusal to obey a subpoena issued to, any person, any Court of this State within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy, or refusal to obey is found, or resides or transacts business, upon application by the Commission, or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before a Commissioner, the Commission, or its duly authorized representative, there to produce evidence, if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the Court may be punished by said Court as a contempt thereof. Any person who shall without just cause, fail or refuse to attend and testify, or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power so to do, in obedience to a subpoena of the Commission, shall be punished by a fine of not less than Two Hundred (\$200) Dollars, or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(j) Protection against Self-Incrimination. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission, or in obedience to the subpoena of the Commission, or any member thereof, or any duly authorized representative of the Commission in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punish-

ment for perjury committed in so testifying.

(k) Witness Fees. Witnesses subpoenaed pursuant to this Section shall be allowed fees at a rate fixed by the Commission. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this Act.

(l) Appeal to Courts. Any decision, in the absence of an appeal therefrom as herein provided, shall become final ten (10) days after the date thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission as provided by this Act. The Commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney who is a regular salaried employee of the Commission and has been designated by it for that purpose, or at the Commission's request, by the Attorney General.

(m) Court Review. Within ten (10) days after the decision of the Commission has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action in any District Court of the State of Texas, against the Commission for the review of its decision, in which action any other party to the proceeding before the Commission shall be made a defendant. In such action, a petition which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the Commission, or upon such person as the Commission may designate, and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants, and the Commission shall forthwith mail one such copy to each such defendant. With its answer, the Commission shall certify and file with said Court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. Such actions shall be heard in a summary manner and shall be given precedence over all other civil cases except cases

arising under the Workmen's Compensation Law of this State. An appeal may be taken from the decision of such District Court of Texas in the same manner, but not inconsistent with the provisions of this Act, as is provided in civil cases. It shall not be necessary, in any judicial proceeding under this Section to enter exceptions to the rulings of the Commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding the Commission shall enter an order in accordance with such determination. In no event shall a petition for judicial review act as a supersedeas.

Sec. 17. Period, Election, and Termination of Employer's Coverage.

(a) Any employing unit which is or becomes an employer subject to this Act within any calendar year shall be subject to this Act during the whole of such calendar year.

(b) Except as otherwise provided in Subsection (c) of this Section, an employing unit shall cease to be an employer subject to this Act only as of the 1st day of January of any calendar year, if it files with the Commission prior to the 5th day of January of such year, a written application for termination of coverage, and the Commission finds that there were no twenty (20) different days, each day being in a different week within the preceding calendar year, within which such employing unit employed eight (8) or more individuals in employment subject to this Act. For the purpose of this Subsection, the two (2) or more employing units mentioned in paragraph (2), or (3), or (4), of Section 25 (f), shall be treated as a single employing unit.

(c) An employing unit, not otherwise subject to this Act, which files with the Commission its written election to become an employer subject hereto for not less than two (2) calendar years, shall, with the written approval of such election by the Commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1st, of any calendar year subsequent to such two (2) calendar years, only if at least thirty (30) days prior to such 1st day of January, it has filed

with the Commission a written notice to that effect.

Sec. 18. Unemployment Compensation Commission.

(a) **Organization.** There is hereby created a Commission to be known as the Unemployment Compensation Commission of Texas. The Commission shall consist of three (3) members, one of whom shall be representative of Labor, one of whom shall be representative of Industry, and one of whom shall be nonpartisan, who shall be appointed by the Governor within ninety (90) days after the passage of this Act, or after any vacancy occurs in its membership. During his term of membership on the Commission, no member shall engage in any other business, vocation or employment or serve as an officer or committee member of any political party organization. The Chairman shall be the member whose term is first to expire. Each member shall hold office for a term of six (6) years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of enactment of this Act shall expire, as designated by the Governor at the time of appointment, one at the end of two (2) years, one at the end of four (4) years, and one at the end of six (6) years after the date of enactment of this Act. The Governor may at any time, after notice and hearing, remove any Commissioner for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

(b) **Divisions.** The Commission shall establish two (2) cooperative divisions; the Texas State Employment Service Division created pursuant to Section 20 of this Act, and the Unemployment Compensation Division. Each division shall be responsible for the discharge of its distinctive function. Each division shall be a separate administrative unit with respect to personnel, budget and duties, except in so far as the Commission may find that such separation in local offices is impracticable because of the small size of the territory served or the volume of work performed.

(c) Salaries. Each Commissioner shall be paid from the Unemployment Compensation Administration Fund a fixed monthly salary at the rate of Three Hundred Dollars (\$300) per month.

(d) Quorum. Any two (2) Commissioners shall constitute a quorum. No vacancy shall impair the right of the remaining Commissioners to exercise all of the powers of the Commission.

Sec. 19. Administration.

(a) Duties and Powers of Commission. It shall be the duty of the Commission to administer this Act; and it shall have power and authority to adopt, amend or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this Act, which the Commission shall prescribe. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Act, and shall have an official seal which shall be judicially noticed. Not later than the 1st day of February of each year, the Commission shall submit to the Governor a report covering the administration and operation of this Act during the preceding calendar year and shall make such recommendations for amendments to this Act as the Commission deems proper. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the Fund, it shall promptly so inform the Governor and the Legislature, and make recommendations with respect thereto.

(b) General Commission Rules. General Commission rules which apply to all, or classes of, employing units, employees, or other persons or agencies, may be adopted, amended or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which appropriate notice has been given through the press. Such rules shall become effective ten (10) days after filing with the Secretary of State and publication in one or more newspapers of general circulation in this State.

(c) Publication. The Commission shall cause to be printed for distribution to the public the text of this Act, the Commission's general rules and its annual reports to the Governor, and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) Personnel. Subject to the other provisions of this Act, the Commission is authorized to appoint and prescribe the duties and powers of such officers temporarily, and at the convening of the Forty-fifth Legislature the same shall be set out in the general appropriation bill by the Legislature. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The Commission shall not employ or pay any person who is an officer or committee member of any political party organization. The Commission may delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this Act, and may in its discretion bond any person handling moneys or signing checks hereunder.

(e) Advisory Councils. The Commission shall appoint a State Advisory Council and Local Advisory Councils, composed in each case of equal numbers of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment or affiliations, and of such members representing the general public as the Commission may designate. Such Councils shall aid the Commission in formulating policies and discussing problems related to the administration of this Act and in assuring impartiality and freedom from political influence in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for any necessary expenses.

(f) Employment Stabilization. The Commission with the advice and aid of its advisory councils, and through its appropriate divisions, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment

and operation, by municipalities, counties, school districts and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the State in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(g) Records and Reports. Each employing unit shall keep true and accurate employment records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission, or its authorized representatives, at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this Act. Information thus obtained shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's identity, but any claimant at a hearing before an appeal tribunal, or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee of the Commission who violates any provision of this Section shall be fined not less than Twenty Dollars (\$20) nor more than Two Hundred (\$200) Dollars, or imprisoned for not longer than ninety (90) days, or both.

(h) State-Federal Cooperation. In the administration of this Act, the Commission shall cooperate to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security

Board governing the expenditures of such sums as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the administration of this Act.

Upon request therefor the Commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act.

Sec. 20. Employment Service.

(a) State Employment Service. The Commission shall create a division to be known as the Texas State Employment Service which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act and for the purpose of performing such duties as are within the purview of the Act of Congress, entitled "an Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," approved June 6, 1933, 48 Stat. 113, U. S. Code, Title 29, Section 49 (c) as amended. Any existing free public employment offices maintained by the State but not heretofore under the jurisdiction of the Commission shall be transferred to the jurisdiction of such division by August 31, 1937, and upon such transfer all duties and powers conferred upon any other department, agency, or officer of this State relating to the establishment, maintenance and operation of free public employment offices shall be vested in said division. The said division shall be administered by a full-time salaried director, who shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to the State the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended,

are hereby accepted by this State, in conformity with Section 4 of said Act, and this State will observe and comply with the requirements thereof. The Texas State Employment Service Division is hereby designated and constituted the agency of this State for the purpose of said Act. The Commission is directed to appoint the director, other officers and employees of the Texas State Employment Service. Such appointments shall be made in accordance with regulations prescribed by the Director of the United States Employment Service.

(b) All moneys received by this State under the said Act of Congress, as amended, shall be paid into the special "employment service account" in the Unemployment Compensation Administration Fund, and said moneys are hereby made available to the Texas State Employment Service to be expended as provided by this Section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, said division is authorized to enter into agreement with any political subdivision of this State or with any private, non-profit organization, and as a part of any such agreement the Commission may accept moneys, services, or quarters as a contribution to the employment service account.

Sec. 21. Unemployment Compensation Administration Fund.

(a) Special Fund. There is hereby created a special fund to be known as the Unemployment Compensation Administration Fund which shall be deposited with the State Treasurer. All moneys which are deposited or paid into this Fund are hereby appropriated and made available to the Commission. All moneys in this Fund shall be expended solely for the purpose of defraying the cost of the administration of this Act, and for no other purpose whatsoever. The Fund shall consist of all moneys appropriated by this State, and all moneys received from the United States of America, or any agency thereof, including the Social Security Board and the United States Employment Service, or from any other source, for such purpose, and shall be administered separate and apart from all public moneys or funds of the State. All fines and penalties collected pursuant to the administration

of this Act are hereby appropriated to and shall be paid into this Fund. All moneys in this Fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for special funds in the State Treasury. Any balances in this Fund shall not lapse at any time but shall be continuously available to the Commission for expenditure consistent with this Act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the Unemployment Compensation Administration Fund in an amount to be fixed by the Commission and in a form prescribed by law or approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the Treasurer of the Unemployment Compensation Fund under Section 9 of this Act, shall be paid from the moneys in the Unemployment Compensation Administration Fund.

(b) Employment Service Account. A special "employment service account" shall be maintained as a part of the Unemployment Compensation Administration Fund for the purpose of maintaining the public employment offices established pursuant to Section 20 of this Act and for the purpose of cooperating with the United States Employment Service.

Sec. 22. Protection of Rights and Benefits.

(a) Waiver of Rights Void: No agreement by an individual to waive, release or commute his rights to benefits or any other rights under this Act shall be valid. No agreement by an employee or by employees to pay all or any portion of an employer's contributions, required under this Act from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver by an employee of any rights hereunder. Any employer or officer or agent of an employer who violates any provision of this Subsection shall, for each offense, be fined not less than One Hundred (\$100) Dollars nor more than One Thousand (\$1000) Dollars, or be imprisoned for not more than six (6) months, or both.

(b) **Limitation of Fees.** No employee shall be charged fees of any kind in any proceeding under this Act by the Commission or its representatives or by any Court or any officer thereof. Any individual claiming benefits in any proceeding before the Commission or a Court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the Commission. Any person who violates any provision of this Subsection shall, for each such offense, be fined not less than Fifty (\$50) Dollars, nor more than Five Hundred (\$500) Dollars, or imprisoned for not more than six (6) months, or both.

(c) **No assignment of Benefits, Exemptions:** No assignment, pledge or encumbrance of any kind to benefits which are or may become due or payable under this Act shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was unemployed. No waiver of any exemption provided for in this Subsection shall be valid.

Sec. 23. Representation in Court.

(a) In any civil action to enforce the provisions of this Act the Commission and the State may be represented by any qualified attorney who is a regular salaried employee of the Commission and is designated by it for this purpose or at the Commission's request, by the Attorney General. In case the Governor designates special counsel to defend, on behalf of the State, the validity of this Act, the expenses and compensation of such special counsel and of any experts employed by the Commission in connection with such proceeding, may be charged to the Unemployment Compensation Administration Fund.

(b) All criminal actions for violation of any provision of this Act, or of any rules or regulations issued pursuant thereto, shall be prosecuted

by the Attorney General of the State; or, at his request and under his direction, by the prosecuting attorney of any county in which the employer has a place of business or the violator resides.

Sec. 24. Non-Liability of State. Benefits shall be deemed to be due and payable under this Act only to the extent provided in this Act and to the extent that moneys are available therefor to the credit of the Unemployment Compensation Fund and neither the State nor the Commission shall be liable for any amount in excess of such sums.

Sec. 25. Definitions. As used in this Act, unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages payable by one or more employers (regardless of the time of payment) for employment during a calendar year.

(2) "Average annual payroll" means the average of the annual payroll of any employer for the last three (3) or five (5) preceding calendar years, whichever average is higher.

(b) "Benefits" means the money payments payable to an individual, as provided in this Act, with respect to his employment.

(c) "Commission" means the Unemployment Compensation Commission established by this Act.

(d) "Contributions" means the money payments to the State Unemployment Compensation Fund, required by this Act.

(e) "Employing unit" means any individual or type or organization, including any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or, subsequent to January 1, 1935, had in its employ one or more individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this Act. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any employment which is part of its usual trade, oc-

cupation, profession or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of Section 25 (f), or Section 17 (c) of this Act, the employing unit shall for all the purposes of this Act be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged solely in performing such employment; except that each such contractor or subcontractor who is an employer by reason of Section 25 (f), or Section 17 (c) of this Act shall alone be liable for the contributions measured by wages payable to individuals in his employ, and except that any employing unit who shall become liable for any pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of Section 25 (f), or Section 17 (c) of this Act, may recover the same from such contractor or subcontractor.

(f) "Employer" means: (1) Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment, eight (8) or more individuals (irrespective of whether the same individuals are or were employed in each such day).

(2) Any employing unit which acquired its organization, trade or business, or substantially all the assets thereof from another which at the time of such acquisition was an employer subject to this Act;

(3) Any employing unit which acquired its organization, trade or business, or substantially all the assets thereof from another employing unit and which, if treated as a single unit with such other employing unit would be an employer under paragraph (1) of this Subsection;

(4) Any employing unit which together with any one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other em-

ploying unit, would be an employer under paragraph (1) of this Subsection;

(5) Any employing unit which, having become an employer under paragraph (1), (2), (3), or (4), has not, under Section 17 ceased to be an employer subject to this Act; or

(6) For the effective period of its election pursuant to Section 17 (c) any other employing unit which has elected to become fully subject to this Act.

(g) "Employment" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied, which service: (1) is performed in this State by an individual; or (2) is performed elsewhere, but is incidental to such service in this State, provided contributions are not required and paid with respect to such services performed elsewhere under an Unemployment Compensation Law of any other State; or (3) is performed under a contract of hire made in this State under which some service is performed in this State, provided that with respect to service performed without this State under such contract of hire contributions are not required and paid under an Unemployment Compensation Law of any other State; but the term shall not include;

(1) Service performed in this State incidental to service performed elsewhere, with respect to which service performed in this State, contributions are required and paid under an Unemployment Compensation Law of any other State;

(2) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions;

(3) Service performed in the employ of any other State or its political subdivision, or of the United States Government, or of an instrumentality of any other State or States of their political subdivisions or of the United States.

(4) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress, provided that the Commission is hereby authorized and directed

to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in Section 19 (b) of this Act for general Commission rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act.

(5) Agricultural labor;

(6) Domestic service in a private home;

(7) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(8) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

(9) Service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(h) "Employment Office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a State controlled system of public employment offices.

(i) "Fund" means the Unemployment Compensation Fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

(j) "Partial unemployment." An individual shall be deemed "partially unemployed" in any week if his wages payable for such week fail to exceed one hundred and twenty (120) per centum of the weekly benefit amount he would be entitled to receive if totally unemployed and eligible.

(k) "State" includes Alaska, Hawaii and the District of Columbia.

(l) "Total unemployment." An individual shall be deemed "totally unemployed" in any calendar week with respect to which no wages are payable to him.

(m) "Unemployment Compensation Administration Fund" means the Unemployment Compensation Administration Fund established by this Act, from which administrative expenses under this Act shall be paid.

(n) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable average amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Commission.

(o) "Week" means calendar week, ending at midnight Saturday, or the equivalent thereof as determined in accordance with general rules of the Commission, provided that prior to the approval of any such general rule, the Commission finds that such rule will be fair and reasonable with respect to all affected parties.

(p) "Week of employment" means each week occurring after December 31, 1936, and after an employer has become subject under Section 25 (f) of this Act, within which the individual performs any employment for such an employer, but does not include any week in which the plurality of such individual's total working hours are performed without this State, with respect to which plurality of total working hours, contributions are required and paid under an Unemployment Compensation Law of some other State, or compensation is payable under an Unemployment Compensation Law of the United States.

Sec. 26. It is hereby declared to be the specific intent of the Legislature of the State of Texas in enacting this law that the Unemployment Compensation Commission created and established by this Act shall not, in any event, exist for a period of

time longer than the existence of the similar Commission created by the Congress of the United States; nor shall the taxes and contributions paid hereunder for the purposes and uses provided in this Act be levied and collected by Texas for a longer period of time than the levying and collection of said taxes and contributions for said purposes by the Government of the United States of America.

Sec. 27. Savings Clause. The Legislature reserves the right to amend or repeal all or any part of this Act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Act or by Acts done pursuant thereto shall exist subject to the power of the Legislature to amend or repeal this Act at any time.

Sec. 28. Separability of Provisions.

(a) If any section, subsection, paragraph, clause, sentence, or word of this Act, or the application thereof to any person or circumstance, is held invalid, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

(b) In the event that the provisions of this Act which impose taxes be declared invalid or void for any reason, the remainder of the Act shall nevertheless remain in full force and effect; and it is declared to be the intention of the Legislature that the remainder of the Act would have been enacted without the provisions imposing taxes. It is further enacted that in the event the provisions of this Act which imposes taxes, are held invalid or void, all payments which have been voluntarily made under the provisions of the Act shall be and remain the property of the fund to which they are deposited; and that employers shall have the right to continue to make voluntary contributions for unemployment insurance under this Act.

Sec. 29. Emergency Clause. The fact that Texas has no unemployment insurance system to supplement the Federal Social Security Program creates an emergency and an imperative public necessity requiring the suspension of the Constitutional Rule,

requiring bills to be read on three several days in each House, and the Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Mr. Harris of Dallas offered the following amendment to the amendment by Mr. Davisson of Eastland:

Amend amendment to Senate Bill No. 5 by adding subdivision "Q" following subdivision "P" of Sec. 25, as follows:

"In determining employees under this Act and in determining employers under this Act, and in determining wages under this Act, neither shall include employment of or service by agents of insurance companies who collect their compensation on a commission basis."

HARRIS of Dallas.

REED of Dallas.

HANNA.

The amendment was adopted.

Mr. Roane moved to table the amendment by Mr. Davisson of Eastland.

The motion to table was lost.

Question recurring on the amendment by Mr. Davisson of Eastland, as amended, it was adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and with the body of the bill.

Senate Bill No. 5 was then passed to third reading.

SENATE BILL NO. 5 ON THIRD READING

The Speaker then laid Senate Bill No. 5 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—110

Adamson	Calvert
Adkins	Celaya
Alexander	Collins
Alsup	Colquitt
Ash	Colson
Atchison	Cooper
Bradbury	Crossley
Bridgers	Daniel
Broyles	Davis
Butler of Brazos	Davisson of Fisher
Butler of Karnes	Davisson
Cagle	of Eastland

Dickison	McCalla
Dwyer	McConnell
England	McFarland
Fain	McKinney
Farmer	Moffett
Fisher	Moore
Ford	Morris
Fuchs	Morrison
Gibson	Morse
Glass	Newton
Gray	Nicholson
Greathouse	Olsen
Hankamer	Palmer
Hanna	Patterson
Hardin	Payne
Harris of Archer	Quinn
Harris of Dallas	Reader
Hartzog	Reed of Bowie
Head	Reed of Dallas
Herzik	Roach of Angelina
Hill	Roach of Hunt
Hodges	Roark
Hofheinz	Roberts
Holland	Rogers
Howard	Rutta
Huddleston	Scarborough
Hunt	Sessions
Hunter	Settle
Hyder	Shofner
Jefferson	Smith
Jones of Falls	Stinson
Jones of Shelby	Tarwater
Jones of Wise	Tennyson
Keefe	Thornton
King	Waggoner
Knetsch	Walker
Lanning	Wells
Latham	Westfall
Leath	Wood of Harrison
Lemens	Wood of Montague
Leonard	Worley
Lotief	Young
Lucas	Youngblood
Mauritz	

Nays—18

Aikin	Fox
Bergman	Frazer
Burton	Good
Caldwell	Lindsey
Canon	Petsch
Craddock	Roane
Dunagan	Russell
Dunlap of Hays	Steward
Duvall	Venable

Absent

Bourne	Harper
Bradford	Hoskins
Broadfoot	James
Cowley	Lange
Dunlap of Kleberg	Luker
Graves	Pope

Riddle	Stanfield
Spears	Tillery

Absent—Excused

Jackson	Padgett
Jones of Atascosa	Stovall
McKee	

MESSAGE FROM THE SENATE

Austin, Texas, October 15, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has concurred in House amendments to Senate Bill No. 8 as follows:

Yeas 30, Nays 0.

Respectfully,

BOB BARKER,
Secretary of the Senate.

CONCERNING INSTRUCTIONS
TO CERTAIN COMMITTEE

Mr. Hofheinz offered the following resolution:

Whereas, There has been created a committee in the House of Representatives by virtue of H. S. R. Nos. 12 and 19, for the purpose of investigating improper teachings in the State Educational Institutions of Texas; and

Whereas, This committee is now holding meetings pursuant to such resolutions which reflected much ridicule and indignity upon the entire membership of the House of Representatives; and

Whereas, The evidence thus far produced by such committee has been entirely irrelevant to the purposes of the resolutions pursuant to which the investigations are now being held; therefore, be it

Resolved by the House of Representatives, That this committee be instructed to immediately discontinue its activities, and that no report from investigations thus far held be made to the House of Representatives.

HOFHEINZ,
JONES of Wise,
MAURITZ,
CAGLE,
TARWATER,
FOX,
KEEFE,
FAIN.

The resolution was read second time.

Mr. Reed of Dallas moved the previous question on the resolution and the main question was ordered.

Question recurring on the resolution, yeas and nays were demanded.

The resolution was lost by the following vote:

Yeas—43

Adkins	Lotief
Aikin	Lucas
Bradbury	Mauritz
Bridgers	McCalla
Burton	McFarland
Cagle	Morris
Daniel	Morrison
Davis	Newton
Davison of Fisher	Palmer
Fain	Payne
Ford	Reed of Bowie
Fox	Roark
Glass	Roberts
Harris of Archer	Rogers
Herzik	Russell
Hofheinz	Rutta
Jones of Falls	Shofner
Jones of Shelby	Tarwater
Jones of Wise	Tennyson
Keefe	Walker
Lanning	Wells
Leath	

Nays—75

Adamson	Hartzog
Alsup	Hill
Atchison	Hodges
Bradford	Holland
Broyles	Hoskins
Butler of Brazos	Howard
Butler of Karnes	Huddleston
Caldwell	Hunt
Canon	Hunter
Celaya	Hyder
Collins	James
Colquitt	Jones of Atascosa
Colson	King
Craddock	Knetsch
Crossley	Latham
Dickison	Leonard
Dunlap of Hays	Lindsey
Duvall	Luker
Farmer	McKinney
Fisher	Moffett
Frazer	Moore
Fuchs	Morse
Gibson	Nicholson
Good	Olsen
Gray	Patterson
Greathouse	Petsch
Hankamer	Quinn
Hanna	Reader
Hardin	Reed of Dallas

Roach of Angelina	Venable
Roach of Hunt	Waggoner
Roane	Westfall
Scarborough	Wood of Harrison
Sessions	Wood of Montague
Smith	Worley
Steward	Young
Stinson	Youngblood
Thornton	

Present—Not Voting

Alexander	Head
Cooper	McConnell
Harris of Dallas	Settle

Absent

Ash	England
Bergman	Graves
Bourne	Harper
Broadfoot	Jefferson
Calvert	Lange
Cowley	Lemens
Davisson	Pope
of Eastland	Riddle
Dunagan	Spears
Dunlap of Kleberg	Stanfield
Dwyer	Tillery

Absent—Excused

Jackson	Padgett
McKee	Stovall

PAIRED

Mr. Alexander (present), who would vote "nay," with Mr. Spears (absent), who would vote "yea."

BILL AND RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally the following enrolled bill and resolutions:

H. C. R. No. 12, Granting Odis Wade permission to sue the State.

H. C. R. No. 13, Granting Mrs. Virginia Thomas permission to sue the State.

H. C. R. No. 5, Granting Mike Martin permission to sue the State.

H. C. R. No. 14, Granting Gertrude Pugh permission to sue the State.

H. C. R. No. 11, Granting W. D. Hill and Mrs. Willie Hill permission to sue the State.

H. C. R. No. 10, Granting T. G. Allen permission to sue the State.

H. C. R. No. 9, Granting The State Life Insurance Company of Indianapolis, Indiana, permission to sue the State.

S. B. No. 11, "An Act amending H. B. No. 10, Regular Session, Forty-first Legislature, 1929; and declaring an emergency."

HOUSE BILL NO. 39 ON SECOND READING

Mr. Dwyer moved that the regular order of business be suspended, at this time, to take up and have placed on its second reading and its passage to engrossment,

H. B. No. 39, A bill to be entitled "An Act making it unlawful to engage or assist in pool selling or bookmaking on horse races; making it unlawful by means of telegraph or telephone or otherwise to aid or assist in pool selling or bookmaking or to aid or assist other persons in wagering or placing bets on horse races; making it unlawful for property to be used as a place for selling pools or bookmaking or wagering or receiving or assisting persons in placing bets or in receiving or offering to bet anything of value on horse races; defining operator of the business of pool selling or bookmaking; providing that certain provisions of this Act shall not be applicable to persons obtaining a permit or license to engage in the operation of a bookmaking or pool selling business; requiring registration of operator of pool selling or bookmaking business, payment of license fee, penalties for failure to register and pay fees; setting time for duration of license; providing for deposit of all license fees in the Treasury to the credit of the Available School Fund and the Texas Old Age Assistance Fund; providing for the Texas Racing Commission to make and issue registration forms and licenses and to promulgate rules and regulations therefor; providing penalties for the violation of any provision of this Act; repealing all laws and parts of laws conflicting; and declaring an emergency."

The motion prevailed by the following vote:

Yeas—59

Ash
Bergman

Bradford
Butler of Karnes

Celaya
Collins
Colson
Cooper
Craddock
Crossley
Davison of Fisher
Davisson
of Eastland
Dickison
Dunlap of Hays
Dwyer
Fisher
Frazer
Fuchs
Good
Hankamer
Hanna
Hardin
Harris of Dallas
Herzik
Hill
Holland
Hoskins
Howard
Hunter
James
Jefferson

Adamson
Adkins
Aikin
Alexander
Alsup
Atchison
Bradbury
Broyles
Burton
Butler of Brazos
Canon
Colquitt
Cowley
Daniel
Davis
Duvall
England
Fain
Farmer
Ford
Fox
Gibson
Glass
Gray
Greathouse
Harris of Archer
Hodges
Hofheinz
Huddleston

King
Knetsch
Leonard
Luker
Mauritz
McFarland
McKinney
Moore
Morse
Newton
Nicholson
Payne
Quinn
Reader
Reed of Dallas
Roach of Hunt
Roane
Roberts
Rogers
Smith
Steward
Thornton
Waggoner
Walker
Westfall
Wood of Montague
Worley
Young

Nays—57

Hunt
Hyder
Jones of Atascosa
Jones of Falls
Jones of Wise
Lanning
Lindsey
Lucas
McCalla
McConnell
Moffett
Palmer
Patterson
Petsch
Reed of Bowie
Roach of Angelina
Roark
Russell
Rutta
Sessions
Settle
Shofner
Stinson
Tarwater
Tennyson
Wells
Wood of Harrison
Youngblood

Absent

Bourne
Bridgers

Broadfoot
Cagle

Caldwell	Lemens
Calvert	Lotief
Dunagan	Morris
Dunlap of Kleberg	Morrison
Graves	Olsen
Harper	Pope
Hartzog	Riddle
Jackson	Scarborough
Jones of Shelby	Spears
Keefe	Stanfield
Lange	Tillery
Latham	Venable
Leath	

Absent—Excused

Head	Padgett
McKee	Stovall

Mr. Aikin raised a point of order, on further consideration of House Bill No. 39, on the ground that the subject matter contained in the bill has not been submitted by the Governor.

The Speaker overruled the point of order.

The Speaker then laid House Bill No. 39 before the House, and it was read second time.

Question—Shall H. B. No. 39 pass to engrossment?

MOTION TO TAKE UP HOUSE BILL NO. 3

Mr. Reader moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 3 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—67

Adkins	England
Aikin	Fain
Alexander	Farmer
Alsup	Fisher
Ash	Ford
Bradbury	Fox
Bridgers	Fuchs
Broyles	Glass
Burton	Gray
Butler of Brazos	Greathouse
Cagle	Hardin
Canon	Hartzog
Cowley	Herzik
Craddock	Hodges
Crossley	Hofheinz
Daniel	Holland
Davis	Huddleston
Davison of Fisher	Hunt
Dickison	Hunter

Jones of Falls	Quinn
Jones of Wise	Reader
Knetsch	Reed of Bowie
Leath	Roach of Hunt
Leonard	Roark
Lindsey	Russell
Lucas	Rutta
Luker	Sessions
Mauritz	Venable
McConnell	Waggoner
Moore	Westfall
Newton	Wood of Harrison
Palmer	Wood of Montague
Patterson	Youngblood
Payne	

Nays—52

Adamson	Jones of Atascosa
Atchison	King
Bergman	Lanning
Bradford	Latham
Butler of Karnes	McCalla
Caldwell	McFarland
Celaya	McKinney
Collins	Moffett
Colquitt	Morse
Colson	Nicholson
Cooper	Reed of Dallas
Dunlap of Hays	Roach of Angelina
Dunlap of Kleberg	Roane
Duvall	Rogers
Dwyer	Scarborough
Gibson	Settle
Good	Shofner
Hankamer	Smith
Hanna	Steward
Harris of Archer	Stinson
Harris of Dallas	Tarwater
Hill	Tennyson
Hoskins	Thornton
Howard	Walker
Hyder	Wells
James	Young

Absent

Bourne	Lemens
Broadfoot	Lotief
Calvert	Morris
Davisson	Morrison
of Eastland	Olsen
Dunagan	Petsch
Frazer	Pope
Graves	Riddle
Harper	Roberts
Jefferson	Spears
Jones of Shelby	Stanfield
Keefe	Tillery
Lange	Worley

Absent—Excused

Head	Padgett
Jackson	Stovall
McKee	

**MOTION TO LAY HOUSE BILL
NO. 2 ON THE TABLE
SUBJECT TO CALL**

Mr. Worley moved that House Bill No. 2 be laid on the table subject to call.

Question recurring on the motion to lay House Bill No. 2 on the table subject to call, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—58

Adkins	Jones of Wise
Aikin	Keefe
Alexander	Knetsch
Alsup	Lanning
Ash	Leath
Atchison	Lindsey
Bradbury	Lucas
Burton	McConnell
Butler of Brazos	Morris
Cagle	Newton
Canon	Olsen
Daniel	Palmer
Davis	Patterson
Davison of Fisher	Payne
England	Petsch
Fain	Reed of Bowie
Farmer	Roach of Angelina
Fisher	Roark
Ford	Roberts
Fox	Rogers
Gray	Rutta
Hardin	Sessions
Harris of Archer	Tarwater
Hodges	Tennyson
Huddleston	Venable
Hunt	Waggoner
Hyder	Walker
Jones of Falls	Worley
Jones of Shelby	Youngblood

Nays—61

Adamson	Dwyer
Bergman	Gibson
Bradford	Glass
Broyles	Good
Butler of Karnes	Hankamer
Caldwell	Hanna
Celaya	Harris of Dallas
Collins	Hartzog
Colquitt	Hill
Colson	Hofheinz
Cooper	Holland
Cowley	Hoskins
Craddock	Howard
Crossley	Hunter
Dickison	James
Dunlap of Kleberg	Jefferson
Duvall	Jones of Atascosa

King	Roane
Latham	Russell
Leonard	Scarborough
Luker	Settle
McCalla	Smith
McFarland	Steward
McKinney	Stinson
Moffett	Thornton
Moore	Wells
Morrison	Westfall
Morse	Wood of Harrison
Quinn	Wood of Montague
Reed of Dallas	Young
Roach of Hunt	

Absent

Bourne	Herzik
Bridgers	Lange
Broadfoot	Lemens
Calvert	Lotief
Davisson	Mauritz
of Eastland	Nicholson
Dunagan	Pope
Dunlap of Hays	Reader
Frazer	Riddle
Fuchs	Shofner
Graves	Spears
Greathouse	Stanfield
Harper	Tillery

Absent—Excused

Head	Padgett
Jackson	Stovall
McKee	

**RELATIVE TO HEARINGS OF
CERTAIN INVESTIGATING
COMMITTEE**

Mr. Smith offered the following resolution:

Whereas, The Committee for the investigation of communism and atheism in the Institutions of Higher Learning in Texas have passed a rule that excludes the public from their hearings; and

Whereas, The public desires to be present at these hearings; and

Whereas, The right of free assembly should always be maintained in this democratic country of ours; therefore, be it

Resolved, That said Committee be empowered to maintain order and instructed to allow the public to attend said meetings.

SMITH,
BRADBURY.

The resolution was read second time.

Mr. Greathouse offered the following amendment to the resolution:

Add at the end of the resolution the following words:

"That the Committee be further authorized to exclude the public if the audience refuses to maintain order and decorum as required by the Committee."

Mr. Roane raised a point of order, on further consideration of the resolution, on the ground that the time allotted for the consideration of resolutions has expired, and that same is not a privileged resolution.

The Speaker overruled the point of order.

Question recurring on the amendment by Mr. Greathouse, it was adopted.

Mr. Thornton offered the following amendment to the resolution:

Amend the Bradbury Resolution by adding at the end thereof the following:

"The public shall be confined to the gallery."

The amendment was adopted.

Question recurring on the resolution, as amended, it was adopted.

ADJOURNMENT

Mr. Worley moved that the House recess to 10:00 o'clock a. m., tomorrow.

Mr. Farmer moved that the House adjourn until 10:00 o'clock a. m., Friday, October 16.

Question first recurring on the motion by Mr. Farmer, it prevailed, and the House, accordingly, at 5:00 o'clock p. m., adjourned until 10:00 o'clock a. m., Friday, October 16.

APPENDIX

STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills and resolution as follows:

Agriculture: Senate Concurrent Resolution No. 7.

Revenue and Taxation: House Bills Nos. 46, 48, 49 and 50.

REPORTS OF THE COMMITTEE ON ENGROSSED BILLS

Committee Room,

Austin, Texas, October 15, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 3, A bill to be entitled "An Act amending Section 2, Acts 1933, Regular Session of Forty-third Legislature, page 409, Chapter 162, House Bill No. 154, as amended by Acts of 1933, Forty-third Legislature, First Called Session, page 43, Chapter 12; increasing the tax on oil; allocating the revenue to the Public School Fund, and for the payment of Old Age Pensions; prescribing a savings clause, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

HODGES, Chairman.

Committee Room,

Austin, Texas, October 15, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 37, A bill to be entitled "An Act authorizing the issuance of interest-bearing warrants to pay Old Age Assistance benefits, making an appropriation, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

HODGES, Chairman.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,

Austin, Texas, October 15, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 5, Granting Mike Martin of Parker County permission to sue the State for property damage.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, October 15, 1936.
Hon. Coke Stevenson, Speaker of the
House of Representatives.

Sir: Your Committee on Enrolled
Bills, to whom was referred

H. C. R. No. 9, Granting the State
Life Insurance Company of Indian-
apolis, Indiana, permission to sue the
State for property damage in Harde-
man County.

Has carefully compared same and
finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, October 15, 1936.
Hon. Coke Stevenson, Speaker of the
House of Representatives.

Sir: Your Committee on Enrolled
Bills, to whom was referred

H. C. R. No. 10, Granting T. G.
Allen of Navarro County, Texas, per-
mission to maintain and prosecute suit
against the State Highway Commis-
sion of Texas for property damage.

Has carefully compared same and
finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, October 15, 1936.
Hon. Coke Stevenson, Speaker of the
House of Representatives.

Sir: Your Committee on Enrolled
Bills, to whom was referred

H. C. R. No. 11, Granting W. D.
Hill and wife of Carthage, Panola
County, Texas, permission to sue the
State for property damage.

Has carefully compared same and
finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, October 15, 1936.
Hon. Coke Stevenson, Speaker of the
House of Representatives.

Sir: Your Committee on Enrolled
Bills, to whom was referred

H. C. R. No. 12, Granting Odis
Wade of Perrin, Jack County, per-
mission to sue the State for property
damage.

Has carefully compared same and
finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, October 15, 1936.
Hon. Coke Stevenson, Speaker of the
House of Representatives.

Sir: Your Committee on Enrolled
Bills, to whom was referred

H. C. R. No. 13, Granting Mrs. Vir-
ginia Thomas permission to sue the
State for personal injury.

Has carefully compared same and
finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, October 15, 1936.
Hon. Coke Stevenson, Speaker of the
House of Representatives.

Sir: Your Committee on Enrolled
Bills, to whom was referred

H. C. R. No. 14, Granting Gertrude
Pugh of Mineola, Wood County, per-
mission to sue the State for personal
injury.

Has carefully compared same and
finds it correctly enrolled.

ATCHISON, Chairman.

ELEVENTH DAY

(Friday, October 16, 1936.)

The House met at 10:00 o'clock a.
m., pursuant to adjournment, and was
called to order by Speaker Stevenson.

The roll of the House was called,
and the following Members were pres-
ent:

Mr. Speaker	Colquitt
Adamson	Cooper
Adkins	Cowley
Aikin	Craddock
Alexander	Crossley
Alsup	Daniel
Ash	Davis
Atchison	Davison of Fisher
Bergman	Davisson
Bradbury	of Eastland
Bradford	Dickison
Bridgers	Dunagan
Broyles	Dunlap of Hays
Burton	Dunlap of Kleberg
Butler of Brazos	Duvall
Butler of Karnes	Dwyer
Cagle	England
Caldwell	Fain
Calvert	Farmer
Canon	Fisher
Celaya	Ford
Collins	Fox